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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 17th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 20 August 1990, at 10 a.m.

Chairman: Mr. TÜRK

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Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) (continued)

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The meeting was called to order at 10.40 a.m.

1. Mr. TREAT said that he regretted to announce the death, the previous Friday, of Mrs. Bailey, who had served the United Nations and the cause of peace with the greatest devotion. He proposed that the Under-Secretary-General for Human Rights be requested to send a letter of condolence to Mr. Bailey and to the United States Secretary of State for Foreign Affairs, with a copy for Mr. Pickering, Permanent Representative of the United States of America at United Nations Headquarters in New York.

2. It was so decided.

3. The CHAIRMAN informed the Sub-Commission that, in company with the Chairman of the Working Group on Indigenous Populations and the Under-Secretary-General for Human Rights, he had had a talk that morning with the Permanent Representative of Canada. The latter had informed them that representatives of the Mohawks and of the Quebec and Canadian Governments had started negotiations on 16 August in the presence of observers from the International Federation of Human Rights. The negotiators had agreed to make no public comment until their work had been successfully concluded.

4. On 17 August, the Chief of Staff of Canada's defence forces had also announced that supplementary measures would be taken to give effect to the request made by the Prime Minister of Quebec for assistance to put an end to the conflict, and Canadian forces had been requested to replace the Quebec security forces in order to preserve the order needed for the negotiations to continue. The public and the Mohawks were being kept informed of the progress of the operation.

5. The Canadian Government had reiterated its intention of keeping the Secretary-General, the Sub-Commission and the Chairman of the Working Group on Indigenous Populations informed of its efforts to reach a negotiated solution respecting the human rights of all concerned.

6. Mr. ALFONSO MARTÍNEZ asked the Chairman whether the information to the effect that no statement would be made during the negotiations so as not to jeopardize their outcome had been given by the Canadian Government only or whether it had also been confirmed by other sources in Geneva itself.

7. The CHAIRMAN explained that no declaration would be made on the substance of the negotiations.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1990/15, 16 and 49; E/CN.4/Sub.2/1990/NGO/2, 6 and 10; E/CN.4/1990/3, 24-27, 45 and Add.1, 52 and 55; A/44/620)

8. Mr. MARKIDES (Observer for Cyprus) expressed the hope that the Cypriot people would soon benefit from the international community's growing commitment to the protection of human rights. Since the military invasion

by Turkish forces in 1974, Cyprus had found itself in a situation which constituted a serious violation of international law, and its communities of Turkish and Greek origin were artificially separated. Moreover, the occupying Power was trying to modify the composition of the population by a policy of establishing Turkish settlements against the wishes of the Greek Cypriot community, which accounted for 82 per cent of the population.

9. Not only were Turkish troops still occupying Cyprus in defiance of many United Nations resolutions and of many decisions by other international bodies such as the Council of Europe and the Movement of the Non-Aligned Countries; the Turkish side was also refusing to participate in the search for a durable solution and was even engaging in provocations. For instance, on 25 July 1990 the puppet régime in the occupied zone of Cyprus, which had been recognized only by Turkey, had concluded with Turkey an alleged agreement constituting a statement of intent with a view to abolishing passport requirements for nationals of one country going to the other, to setting up a customs union between Turkey and the pseudo-State. That was a further step towards the annexation of the occupied part and a means of repressing the Turkish Cypriots, who were afraid that the occupied zone would soon be transformed into a Turkish province. The Turkish Government was encouraging the establishment of Turkish settlers, who currently numbered 80,000, in the occupied zone, in the houses of expropriated Greek Cypriots who were from now on considered to be alien refugees. Moreover, there were more Turkish soldiers and settlers in the island than there were Turkish Cypriots. It was clear that Turkey was seeking to foist itself on Cyprus for ever, to the detriment of the island's two populations.

10. Furthermore, in flagrant violation of Security Council resolution 550/1984, the Varosha area had been placed under the control of Turkish Cypriot security forces, and preparations were thus being made for its settlement by persons from elsewhere.

11. One of the most tragic questions, that of missing persons, had not yet been dealt with satisfactorily. The Cypriot Government would like the Committee on Missing Persons in Cyprus, established by the General Assembly in 1981, to make an effective inquiry into the fate of those persons. It would also be necessary to deal with the fate of persons living in enclaves, who were being progressively driven from their homes as a result of systematic violations of their human rights and fundamental freedoms.

12. The Cypriot Government, anxious to promote a peaceful and just settlement, was prepared to have recourse to the good offices of the United Nations Secretary-General and to make an immediate start on concrete negotiations on the basis of high-level agreements and the United Nations resolutions. Unfortunately, the Turkish side had put forward provocative conditions for returning to the negotiating table which it had left. Resolution 649/1990 of the Security Council, before which the matter had been brought, was still to be implemented.

13. He thanked the Sub-Commission for the support which it was giving to the cause of human rights in Cyprus. His country was determined to seek a just and lasting solution which secured the withdrawal of foreign troups and

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settlers, the reunification of the country, the proper functioning of the State, and the restoration of the human rights and fundamental freedoms of all Cypriots.

14. Mr. HOMAIDAN (Observer for Lebanon) said that the situation in southern Lebanon was still very serious and that rights and freedoms were being flouted there every day. Since the forty-first session of the Sub-Commission, the Israeli occupation forces and the militia in their pay had engaged in all sorts of abuses, and the list of expulsions, raids and searches, tortures, bombardments, demolitions of houses and arbitrary detentions, inter alia was interminable.

15. The Israeli occupation forces were also prohibiting the Red Cross from having access to detention camps. Once released, detainees remained handicapped and traumatized. Israel's violation of the Fourth Geneva Convention should also be denounced, since if, according to Israel, the security zone was not under Israeli control, it was in any case under the control of militia in its pay.

16. Under Security Council resolution 425 of 1978 Israel should have withdrawn from southern Lebanon 12 years previously, and it must be made to respect that resolution and the other decisions taken to that effect by the United Nations. The security zone, if Israel needed one, must be set up within Israel's frontiers and not in southern Lebanon, where it served as a pretext for establishing a settlement.

17. Mr. FAN Guoxiang (Observer for China), placing the question of Tibet in an historical context, said that it was the People's Republic of China, a multinational republic since it had freed itself from the colonial yoke in 1949, which had liberated Tibet from the imperialist forces and had enabled it to return to the bosom of China. Moreover, the bogus independence of Tibet was not recognized by any State.

18. Under pressure from the Tibetan people, democratic reforms had taken place in 1959; the feudal system of serfdom that had existed until then had been abolished and the Tibetan people had been able to participate in the administration of public affairs on an equal footing with citizens of other Chinese nationalities. The Tibetan region had been autonomous since 1965, and Tibetans occupied the highest posts in the Government of the region and in the local administrations.

19. The Tibetan people was free to use its own language, which was, with Han, an official language of the autonomous region. It could also practise its religion, and although temples had been destroyed in Tibet during the "Cultural Revolution", as elsewhere in China, the Government had since then assigned substantial credits for their restoration.

20. It was in that context that several riots had broken out at Lhassa between September 1987 and March 1989. They really had been riots and not peaceful demonstrations, and some of those who had taken part in them had even received terrorist training abroad, which showed that foreign forces had been directly involved in the events. The riots, which had seriously endangered public security, had been contrary to the wishes and fundamental interests of

the Tibetan people. That was why the Chinese Council of State had decided to impose martial law on the municipality of Lhassa as from 8 March 1989. That step, which had been approved by the majority of the population, had led to the restoration of public order and a return to calm and had been conducive to an improvement in Tibet's economic situation, so much so that the production of cereals in the autonomous region of Tibet had reached a record level in 1989. Since the lifting of martial law in May 1990, the situation had become stable again, in Tibet as in the other regions of China.

21. Over the past 30 years, the autonomous region of Tibet had made remarkable progress in the political, economic, cultural and other fields, and the living conditions of Tibetans had improved. That was why the riots organized by a handful of separatists had been extremely unpopular. It should be borne in mind that the question of Tibet was not a religious question, since the freedom of religion of the Tibetan people was guaranteed by law. Neither was it a question of racial discrimination, since the Tibetan people enjoyed the same rights, provided for by law, as other Chinese citizens. Finally, the question of Tibet was even less a problem of human rights, since it was the democratic reform which had enabled the Tibetan people to shake off the yoke of servitude and at last enjoy a freedom which it had never known before.

22. Tibet constituted an inalienable part of Chinese territory, and the Chinese Government and people were firmly opposed to any attempt to divide China and to impair its unity. Certain international forces, spurred by political motives, were supporting a handful of separatists in Tibet and had tried to use the Sub-Commission in order to spread untrue rumours against China, for the purpose of holding up economic development in Tibet and in the rest of China, of destabilizing the whole country and of tarnishing China's international reputation, but their efforts were doomed to failure.

23. Mr. AUNG THANT (Observer for Myanmar) said that United Nations human rights bodies should not give any credit to allegations based on articles in the press and politically motivated rumours. They must strictly respect the principle of non-interference in the internal affairs of Member States and therefore refrain from adopting a position on matters falling within the domestic jurisdiction of a State. Nevertheless, his delegation found it understandable that members of the Sub-Commission should be interested in what had happened in Myanmar over the past months and wished to inform them that, despite all the untrue allegations propagated on the subject, the general elections in Myanmar had taken place normally, as expected, on 27 May 1990. Their freedom and fairness was no longer disputed, even by the most severe critics, although they, for obvious political reasons, were still refusing to admit that the elections could have taken place without any problem.

24. It should also be pointed out that it was anticipated that the assembly of elected representatives would be convened to draw up a new constitution in conformity with the wishes and aspirations of the people and that a new Government would subsequently be formed, in accordance with the new constitution. Meanwhile, the council responsible for the restoration of public order would continue to defend the principle of the non-disintegration of the Union, of the maintenance of national solidarity and of the preservation of national sovereignty, while keeping public order and guaranteeing the peace and security of the people. It was clear that the

democratic process was continuing in Myanmar steadily and systematically. The people and Government of the Union of Myanmar were determined to construct a truly democratic society and to introduce a market economy; they would progress along that path, guided by their history, culture and national circumstances. While remaining open to wise and reasonable advice, they would, however, reject any attempt to impose upon them any particular political or constitutional approach for attaining their objectives. They were well aware that the task would not be easy and that it would take time.

25. His delegation wished Mrs. Daes and the Working Group on Indigenous Populations over which she presided every success in the elaboration of the draft declaration on indigenous rights and hoped that its views on the subject would be taken into account. In that connection, it was strongly opposed to the ever more frequent presence, at the meetings of a United Nations body, of certain individuals who were only armed insurgents and terrorists whose political motivations were clearly apparent in the allegations which they made against Myanmar. The individuals concerned did not even enjoy the support of those whom they claimed to defend, and the Government of Myanmar had the legitimate duty and the right to suppress the insurgents as long as they continued to attack the people, Government and State of Myanmar.

26. Admittedly, the path chosen by the Union of Myanmar was strewn with difficulties inherent in the complexity of the country's domestic politics and in its geopolitical situation, but it was in conformity with the aspirations of the people. There was no doubt that the process of restructuring and political and economic reform already embarked upon would continue and that the malicious and unjustified external pressures derived from an arrogant self-righteousness, which were oblivious of the real situation and based solely on suspicions and fictitious allegations, could only hamper it.

27. Mr. MASRI (Observer for the Syrian Arab Republic) said that the human rights situation in the occupied Arab territories was continuing to deteriorate with the intensification of the repressive measures taken by the Israeli authorities against the population of the territories for the purpose of putting an end to the intifada. In the report on the situation in the occupied Arab territories which he had submitted to the Security Council in October 1988, the Secretary-General had reviewed all the violations of human rights committed by the Israeli occupation forces in the territories and had emphasized the baseness and harshness of the treatment to which the Palestinians were being subjected, in violation of the 1949 Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War. It should be pointed out that all States parties to that Convention were bound to respect it and to guarantee its implementation in all cases. In particular, the expulsion of Palestinian citizens in order to establish Jewish settlers in their place was contrary to the provisions of article 49 of the Convention, which prohibited deportations of persons from occupied territory.

28. The tragic situation in the Israeli-occupied Arab territories required the adoption of immediate measures to put an end to torture and to the occupation. Despite the brutal repression, the Palestinian people had not renounced its heroic struggle and would continue it until all the Israeli-occupied territories were finally liberated. The inhabitants of the

territories appealed to the Sub-Commission to concern itself with their fate and to ensure that the rules of humanitarian law were respected and implemented in the territories.

29. Mr. RAMLAWI (Observer for Palestine) said that for many years now the Sub-Commission had had before it reports on Israel's failure to respect human rights and international human rights instruments. On many occasions, particularly at its previous session in resolution 1989/4, the Sub-Commission had condemned the unacceptable practices in which Israel was engaged in the occupied Arab territories in violation of international law and had requested Israel to put an end to them. Israel, however, despised all the resolutions of the Sub-Commission, as it despised similar resolutions of the Commission on Human Rights, the General Assembly and the Security Council. The mistreatment, arrests and arbitrary detentions and expulsions to which the Palestinians were exposed had only increased, and the establishment of Jewish settlements had continued. Detailed information on all those practices was contained in the reports of many non-governmental organizations, including Amnesty International and Save the Children, as well as in the Secretary-General's report on the mission of his special envoy to Palestine, which drew attention to the need to protect the rights of Palestinians until the occupied territories had been liberated.

30. However, nothing changed, and the Security Council took no concrete measures or account of international law and justice. Many authorities were in fact subjected to the interests of certain super-Powers. Nevertheless, Israel, which had always flouted all the resolutions adopted by the Security Council in condemnation of its doings, was now mobilizing all its forces in order to enforce the resolution which the Security Council had recently adopted against Iraq. The United States of America, which had done nothing to ensure that the resolutions condemning Israel were respected and which used its right of veto whenever a draft resolution was submitted against Israel, was hastening to send its fleet and aircraft to the Gulf, whereas the dispute between Iraq and Kuwait should be settled between Arabs on the basis of Arab interests and without any foreign intervention. In fact, the military operation was designed to occupy the Arab region in order better to subject it to United States interests through Israel; that was incompatible with respect for human rights. Was a single super-Power, a single State therefore going to impose its will on the international community, in defiance of the interests of the peoples concerned?

31. It was time for all States to shoulder their responsibilities within the United Nations and the Security Council and for them to stop using double standards in respect of the implementation of General Assembly and Security Council resolutions, since the rights of all peoples must be protected, without distinction, throughout the world.

32. Mr. GUISSÉ said that, to enable members to assess the information before them with the greatest possible objectivity, all documents, particularly those dealing with resolutions, should be distributed in all working languages.

33. He explained that, when he had accepted the invitation sent to him by the Iraqi Association for Human Rights, he had been convinced that all members had received the same invitation. On his arrival in Iraq he had been surprised to

find that only a small number of members had come; he had immediately made inquiries of the authorities responsible, which had replied that all members had received an invitation and that the others would not be long in arriving. He recalled that no decision had been taken either by the Commission on Human Rights or by the Sub-Commission on the visit to Iraq, unless it was that no report would be drawn up on it.

34. During their visit, the members of the Sub-Commission had been able, thanks to the mediation of the Iraqi Association for Human Rights, to hold talks with the Minister for Foreign Affairs, the Minister of the Interior and the Minister of Justice, all of whom had readily agreed to reply to the questions put to them. Asked about the death penalty, the Minister of Justice had stated that efforts were currently being made to limit its application.

35. Having gone to the north of the country where the Kurdish minority lived, the members of the Sub-Commission had been invited to participate in a working meeting organized by the Mayor of Arbil and his Municipal Council, during which they had been informed that the Regional Assembly was composed mostly of Kurds. The members had also received an assurance that they could travel to all the places which they wished to visit.

36. They had thus been able to travel to the village of Halabja, which had acquired an unfortunate notoriety as a result of its destruction by the Iraqi army through the use of chemical weapons. According to the evidence which the members had been able to collect, dwellings which had resisted the chemical weapons had been blown up by dynamite and the survivors had been moved out. When they had tried to find out whether, at the time of the attack, the village had been occupied by Iraqi Kurds or by Iranian soldiers, the authorities, while acknowledging the use of chemical weapons, had merely given an evasive reply.

37. The members had also visited schools where, according to their hosts, the children received instruction in the Kurdish language. They had then travelled to villages recently constructed to host the displaced populations. When they had inquired about the reasons for the displacements, the reply had been that the populations concerned had been displaced for security reasons, since they had been living close to the Iranian frontier. Although in the circumstances the explanation given had seemed to him to be plausible, since he himself had observed Iranian observation posts on the other side of the frontier, he found it regrettable that all the information came from the same source. If the members of the Sub-Commission had been able to hold talks with representatives of the opposition or of the Kurdish minority, they would have been able to verify whether their version of the facts concurred with that of the Iraqi authorities.

38. His Iraqi hosts were not responsible for the problems which he had encountered on his arrival in Iraq, when the immigration services had held him up for three hours at the airport, because they had not been informed of his arrival, which had been delayed on account of a change made in the schedule by the Iraqi airline.

39. Mr. SADI, speaking on a point of order, invited members of the Sub-Commission to suspend consideration of agenda item 6 in order to settle, once and for all, the problem raised by the invitation of the Iraqi

authorities. Members could now reach agreement on the text of a decision, which might, for example, be formulated as follows: "In future, the Sub-Commision will examine any invitation addressed to its members and will decide on the action they should take on it".

40. With particular reference to the invitation made by the Iraqi Association for Human Rights, he suggested that members authorize the Chairman of the Sub-Commission to contact the Iraqi authorities with a view to organizing a further visit in conditions acceptable to both parties.

41. The CHAIRMAN reminded members of the Sub-Commission of the provisions of rule 52 of the rules of procedure, according to which "proposals ... shall normally be submitted in writing" and invited them to abide by it in order not to hold up consideration of the matters included in the agenda. He therefore suggested that the discussion on agenda item 6 be continued, although he would comply with the Sub-Commission's wishes if its members decided otherwise, in conformity with rule 41 (2) of the rules of procedure.

42. Mr. YIMER, speaking on a point of order, urged members either to adjourn the discussion on agenda item 6 in order to meet Mr. Sadi's wish, or to continue with its consideration of it, but taking care to avoid confusion.

43. Mr. ILKAHANAF said that any statement on the visit to Iraq came under agenda item 6.

44. Mr. YIMER, speaking on a point of order, observed that by permitting speakers to deal with just any matter in their statements, the Sub-Commission lost control over their content.

45. Mr. JOINET, speaking on a point of order, indicated that the matter of principle raised by Mr. Sadi was concerned with the Sub-Commission's methods of work. He therefore proposed that at the next session the matter be taken up as a priority issue under the relevant agenda item and that the discussion of item 6 be continued in the immediate future.

46. Mr. ALFONSO MARTÍNEZ, speaking on a point of order, said that Mr. Joinet's proposal seemed wise to him, even if he, for his part, would have preferred the Sub-Commission to make a thorough study of the problem raised by Mr. Sadi.

47. Mr. EIDE, speaking on a point of order, supported Mr. Joinet's proposal, stating, however, that members were nevertheless free to deal with questions of methodology during the discussion of agenda item 6.

48. THE CHAIRMAN said that, if there was no objection, he would take it that members agreed with Mr. Joinet's proposal that consideration of the procedural matter concerned be continued at the next session, under the agenda item relating to the Sub-Commission's methods of work.

49. It was so decided.

50. Mr. TIAN Jin congratulated Mr. Khalifa on his very instructive account of the policy being implemented by the Israeli forces in the occupied territories. It showed that the Israeli policy, which constituted a serious

and massive violation of human rights, stemmed from a long-term strategy. Although the United Nations and the international community had condemned it on various occasions, the situation had been continuing for 27 years. He awaited with interest the next report of the Special Committee to Investigate Israeli practices Affecting the Human Rights of the Population of the Occupied Territories, since the information contained in the previous report was over one year old and came from indirect sources. The latest report, however, gave a detailed account of the atrocities committed by the Israeli authorities since the beginning of the intifada, and it was noteworthy that the number of arrests and deaths put forward by the Israeli Minister for Foreign Affairs had been disputed by other sources.

51. Over the past months, several innocent Palestinian workers were reported to have been murdered by Israeli soldiers, who were also reported to have fired on women and children. In an article in Time Magazine dated 23 July 1990, a Palestinian militant who had been arrested three times described the conditions in which he had been held incommunicado. According to a recent work entitled From Beirut to Jerusalem by Thomas Friedman, correspondent of the New York Times at Beirut, the Israeli system was too powerful for the Palestinians to be able to escape from it easily. According to other sources of information, four months before the beginning of the intifada, the Israeli Minister of Defence had computerized some 8.5 million data concerning the housing, property, activities, consumption and production of the Palestinians in the occupied territories. People could not remain insensitive to all that information.

52. He feared that the situation in the occupied territories would become harsher as a result of the disquieting events in the Gulf. It was noteworthy that although South Africa was tending to modify its policy, the State of Israel refused to budge. He therefore urged members to remain vigilant and to study with the greatest care the statements made by both the observer for Israel and the observer for Palestine.

53. During the debate on item 18, the experts had stressed respect for the legitimate political and economic rights of minorities and indigenous populations. Any problem of nationality or language that arose within a country must, however, be settled by peaceful negotiations, in conformity with the principles of mutual respect, sovereignty and territorial integrity. It was also important to avoid any interference in the internal affairs of States, since it could only have divisive effects.

54. In recent years the western countries had made Tibet one of their favourite topics. However, Tibet had been part of China since the seventh century, when many European countries had not existed and when America had not yet been discovered. Today very few dissidents in or outside Tibet wanted Tibet to be independent of China.

55. With regard to the human rights situation in that region of China, he pointed out that life expectancy which, only 20 years previously had been only 50 years, was now 63 years and a half, that education was given in 2,900 schools and that whereas there had formerly been no hospitals, there were now more than 800 health centres. In addition, Tibetans enjoyed special treatment, since the agricultural and pastoral areas of the region were not

liable to taxation. The religion of the Tibetans was also respected. Finally, it should be pointed out that the region had been autonomous for over 500 years and that economic plans had been implemented for the integrated development of central Tibet. On the whole, the future prospects of the region were very encouraging.

56. Mr. AL-DOURI (Observer for Iraq), making a statement equivalent to a right of reply, said that in the statements made concerning Iraq by various non-governmental organizations he had been surprised by the reference to new Iraqi refugees in Kuwait. He therefore requested Amnesty International to give some further information concerning the identity and number of those refugees, since, to the Iraqi Government's knowledge, there were no Iraqi refugees in Kuwait.

57. With regard to the statements made concerning Iraqi pseudo-dissidents who were reported to have refused to join the Baath Party, he pointed out that it was an old story, particularly out of place at a time when Iraq had embarked upon a process of democratizing the country, and that such accusations might well be inspired by the present situation. The allegations, not supported by reliable proof, were merely provocations.

58. Other non-governmental organizations had referred to the forcible displacement of Kurds in the north of the country and of Shiites in the south. His delegation had already mentioned that matter in the Sub-Commission, providing figures and all the necessary information. It had, in fact, recognized that certain populations had had to be displaced to safer areas, as the members of the Sub-Commission who had visited the country a few months previously had been able to ascertain. His delegation, which had the greatest respect for non-governmental organizations, invited them to check their sources of information carefully and to make sure that they were not hostile to Iraq. It also hoped that the organizations concerned would not allow themselves to be influenced by the political campaign currently being waged against Iraq.

59. Mr. OMAR (Observer for the Libyan Arab Jamahiriya), making a statement equivalent to a right of reply to points raised earlier by non-governmental organizations in respect of Islam, with particular reference to abjuration and the sanctions that were reported to accompany it, said that Islam was not obligatory for anyone and that everyone was free to adhere to it or to remain outside it. Islam had always been, and continued to be, a religion of tolerance, and the pseudo-punishments connected with abjuration were a pure invention, coming perhaps from circles hostile to Islam. In that connection it should be pointed out that no Muslim authority had ever practised the inquisition in which the Catholic Church had engaged in the past. Islam respected freedom of religion and asked non-Muslims to do the same and not to interfere with Muslim beliefs.

60. Mr. MEJIA UCLES (Observer for Honduras), making a statement equivalent to a right of reply concerning the criticism of his country and of the efforts being made by the democracies of Latin America on behalf of their peoples, said that the practice of democracy was a progressive and daily task. Since the commitment entered into under the Esquipulas II agreements, the Presidents of the Central American countries met periodically in an endeavour to overcome

the crisis which had disrupted the region for ten years. Honduras, for its part, was trying to make a reality of democracy in all sectors, and for that purpose it was taking measures to provide better guarantees that human rights would be respected. The Government had also undertaken to strengthen the judiciary and was giving very careful consideration to the requests for information submitted to it by the Working Group on Enforced or Involuntary Disappearances, before which the Government Attorney would soon appear in order to explain the efforts made to secure respect for human rights.

61. Mrs. RADIC (Observer for Yugoslavia), making a statement equivalent to a right of reply, noted that the observer for the International League for the Rights and Liberation of Peoples had listed names and described situations with much enthusiasm and precision; if she were in the place of that organization, she would welcome the attention paid to it by part of the press of the canton of Geneva. Also, there were rapporteurs who, if they considered that certain allegations by non-governmental organizations deserved attention, would transmit an official request for information on the subject to the Yugoslav Government.

62. The observer for the organization concerned had spoken of the alleged poisonings of Albanian children, without, however, presenting scientific evidence capable of establishing the guilt of those to whom she seemed so anxious to attribute the crime.

63. The same comment was equally valid for the observer for the International Federation of Human Rights, who had also mentioned that situation. In that organization's report, sent to the Yugoslav Government under the confidential procedure, it was stated that the organization was awaiting the results of the tests being made by several specialist European laboratories. However, five months had passed since the organization's mission had visited Kosovo, and it was still not in a position to publish the results of the tests that had been requested. Furthermore, in another part of the report it was stated that no serious victim had been found among the Serbs for more than one year, whereas some 40 victims of Albanian origin had been reported since the beginning of 1990. In that connection the Sub-Commission might wish to consult a report which the Yugoslav Ministry for Health had sent to WHO on 30 March 1990, which contained information on the formation of a medical team to conduct an inquiry into the incidents under consideration. Copies of that report were available to anyone who wanted to acquaint himself with it.

64. Her delegation was, moreover, willing to show a nine-minute video cassette containing testimony by Serbian and Montenegrin victims of lynchings by the Albanian minority following rumours that Albanian children had been poisoned by Serbs. What was particularly striking in the statements made by the observers of the two non-governmental organizations concerned was that they had declared themselves to be convinced that a poisoning had taken place. The cassette was therefore very interesting in so far as in it children who had allegedly been poisoned and hospitalized were seen walking around in the corridors of the hospital; on the unexpected arrival of journalists, they had begun to run towards their rooms and jump into their beds, pretending to be ill.

65. She wondered what her Government could do in the face of such an improper use of children, when for ten years it had participated in the drafting of the Convention on the Rights of the Child and had welcomed its adoption by the General Assembly at its previous session.

66. Mrs. WARZAZI said that she had always had the greatest respect for all religions and recalled that in the Third Committee of the General Assembly she had played an important role in the adoption of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. She had therefore been deeply surprised, if not shocked, by the statement made by the International Association for Religious Freedom, since she had had the disagreable impression throughout the statement that the spectre of the crusades inspired and motivated by hatred of Islam was being revived. Islam, however, had always preached religious tolerance and respect for the religions of others. It was unwareness of that tolerance which, inter alia, lay at the root of fundamentalism and of the desire to impose alien values. She therefore appealed for greater tolerance towards Islam and asked non-Muslims not to embark upon new crusades.

The meeting rose at 1 p.m.

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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
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Forty-second session

SUMMARY RECORD OF THE 18th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 20 August 1990, at 3 p.m.

Chairman: Mr. TURK

CONTENTS

Consideration of draft resolutions and decisions. Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) (continued)

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GE.90-12831/2297B

The meeting was called to order at 3.30 p.m.

CONSIDERATION OF DRAFT RESOLUTIONS

Elimination of racial discrimination (agenda item 5) (continued)

(a) Measures to combat racism and racial discrimination and the role of the Sub-Commission (E/CN.4/Sub.2/1990/L.2, 3, 5, and 6)

1. The CHAIRMAN announced that draft resolution E/CN.4/Sub.2/1990/L.3 had been withdrawn by its sponsors. Draft resolution E/CN.4/Sub.2/1990/L.5.

2. Mr. ILKAHANAF pointed out that his name had not been included among the sponsors of the draft resolution.

3. Mrs. KSENTINI, introducing the draft resolution, said that the sponsors proposed to replace operative paragraphs 6 and 7 by a new operative paragraph 6.

4. In spite of the efforts of the international community, the Second United Nations Decade to Combat Racism and Racial Discrimination had not achieved its objectives. Millions throughout the world continued to suffer from racism, racial discrimination and apartheid. The draft resolution would identify the problems and the new forms of racism and racial discrimination, in particular, those affecting migrant workers, indigenous peoples and other vulnerable groups in society. Those new forms of racial discrimination were proliferating and called for efforts on the part of the international community to find new methods to combat them.

5. She drew attention, in particular, to operative paragraph 1 in which, the Sub-Commission recommended a third Decade to Combat Racism and Racial Discrimination, starting in 1993. Operative paragraph 2 emphasized the obligation of the international community to take urgent measures to eradicate apartheid and to combat racism and racial discrimination against indigenous peoples, migrant workers and other vulnerable groups. The proposed new paragraph 6 called for activities to increase the effectiveness of United Nations action to combat racism and racial discrimination.

6. The sponsors hoped that the draft resolution, as amended, would be adopted by consensus.

7. Mr. CISSE (Secretary of the Sub-Commission) read out the text of the proposed new paragraph 6:

> "Requests the Secretary-General to consider ways and means, including mechanisms necessary to respond to urgent situations and new trends involving racism or racial discrimination in any part of the world, and to prepare an outline, for consideration at its forty-third session, of possible activities for increasing the effectiveness of United Nations action to combat racism and racial discrimination, reflecting the principles contained in this resolution."

8. Mrs. DAES requested that her name be added to the list of sponsors.

9. Mr. SADI expressed the view that operative paragraph 2 implied that racism required a different degree of attention from apartheid which was to be eradicated while racism and racial discrimination were to be combated. There should be no discrimination between the two evils and their treatment. The same operative paragraph specified certain categories of people but that might be taken to imply that others would not be included. In operative paragraph 3, he would like the words "and educational" to be inserted before "measures".

10. Mr. CISSE (Secretary of the Sub-Commission) read out the text of a new operative paragraph submitted by Mr. Eide:

> "Requests the Secretary-General to explore ways by which the Sub-Commission can have at its forty-third session, a joint meeting for one day with the Committee on the Elimination of All Forms of Racial Discrimination."

11. Mr. ALFONSO MARTINEZ said that he had some comments which the co-sponsors might care to take into account. Those were not formal amendments but suggestions which might perhaps help to make the text somewhat clearer.

12. In the first line of the last preambular paragraph the word "favourably" might be included between "consider" and "proclaiming"; the paragraph would then be more compatible with operative paragraph 1. The words "if they so wish" might be added at the end of operative paragraph 5. In operative paragraph 2 specific reference was made to indigenous peoples who however, in some cases might, prefer to live within their own institutional frameworks. Operative paragraph 5 should reflect that option so that a particular group of vulnerable people would only participate to a greater extent in national life if it so desired. In new operative paragraph 6, he would suggest deleting "including mechanisms". The word "mechanisms" had many meanings and in any case the concept would be covered by the term "ways and means".

13. He supported the proposal by Mr. Sadi to add "and educational" in operative paragraph 3 and also Mr. Eide's proposal to hold a one-day joint meeting with the Committee on the Elimination of Racial Discrimination.

14. Mr. GUISSE considered that it would not be appropriate to equate apartheid with other forms of racial discrimination. In the evolution of international law in the Commission and Sub-Commission, the two concepts had always been kept separate and they had been combated by different means. Apartheid was an institutionalized form of racial discrimination as a form of government. The existing text of operative paragraph 2 was already good and complete.

15. The proposal by Mr. Alfonso Martínez regarding operative paragraph 5 would distort the meaning of that paragraph as there would be a clear contradiction between recognizing the importance of activities and then implying that they were optional. The original draft was quite adequate.

16. As to Mr. Eide's suggestion for a one-day meeting with the Committee on the Elimination of Racial Discrimination to encourage co-operation between the two bodies, such a meeting should not become a regular institution as that would only lead to a further proliferation of United Nations machinery.

17. Mrs. WARZAZI, referring to the proposal by Mr. Alfonso Martínez concerning the last preambular paragraph, said that what the paragraph was intended to convey was the Sub-Commission's conviction of the need for a third Decade, and in the light of that conviction, the General Assembly could take a decision. She suggested that the wording should be revised to read: "Convinced of the need to proclaim, in 1993, a third Decade ... ".

18. With regard to Mr. Guissé's comment on Mr. Sadi's amendment to operative paragraph 2, she explained that it was necessary to keep to the title of the Decade: There was no question of giving priority to apartheid over racial discrimination. She suggested, however, that the words "all forms of" should be inserted before "racism" in the second line and the words "including discrimination" should be inserted after the word "discrimination" in the second line.

19. She supported Mr. Sadi's amendment to operative paragraph 3, but considered that information was even more important than education, because it was essential to change public opinion. She therefore suggested that a reference to information should be inserted after "educational" in the second line.

20. She strongly supported Mr. Eide's proposal concerning a new operative paragraph. However, since there were no financial implications, there was no need for the idea to be studied: all that was needed was to ask the Secretary-General to organize a joint meeting between the Sub-Commission and the Committee on the Elimination of Racial Discrimination.

21. If her proposals were acceptable to the sponsors, she would like to become a sponsor herself.

22. Mr. CHERNICHENKO, speaking on a point of order, said that the draft resolution merited a consensus, but time was needed to discuss the many amendments. He suggested that if the meeting could be suspended for a short time, long discussions would be avoided.

23. Mrs. KSENTINI saw no need for a suspension. If she could sum up the situation, the draft resolution could then be adopted by consensus.

24. The sponsors could accept Mrs. Warzazi's amendment to the final preambular paragraph: "Convinced of the need to proclaim, in 1993, a third Decade ...". They would also accept the amendments to operative paragraph 2: the second and third lines to read "to combat all other forms of racism and racial discrimination, including those against ..."; and the inclusion of "education and information" in operative paragraph 3.

25. The sponsors could not accept Mr. Alfonso Martínez' amendment to operative paragraph 5, which she assumed was not a formal proposal and which she hoped he would not press.

26. The sponsors could accept the new paragraph proposed by Mr. Eide, as amended by Mrs. Warzazi, to read: "Requests the Secretary-General to organize, at the Sub-Commission's forty-third session, a joint one-day meeting with the Committee on the Elimination of Racial Discrimination."

27. Lastly, regarding the proposed new paragraph 6, combining former paragraphs 6 and 7, the sponsors would agree to the deletion of the words "including mechanisms" as requested by Mr. Alfonso Martínez.

28. She noted that Mrs. Warzazi, Mrs. Daes and Mr. Despouy had become sponsors of the draft resolution.

29. Draft resolution E/CN.4/Sub.2/1990/L.5, as amended, was adopted.

30. Mr. DESPOUY suggested that it would save time and discussion, if in future, amendments were submitted in writing, with due regard to the 24-hour deadline.

Draft resolution E/CN.4/Sub.2/1990/L.6

31. Mr. ALFONSO MARTINEZ, introducing the draft resolution, said that its purpose was set forth in operative paragraph 2 and the methods of achieving it were set forth in operative paragraphs 3 and 5. The sponsors were not asking for a decision at the present session on the possibility of updating the study prepared in 1976 by Mr. Santa Cruz - and in any case a request would have to be sent, through the Commission on Human Rights, to the Economic and Social Council - in view of limited resources and the possible proliferation of studies.

32. Mr. CISSE (Secretary of the Sub-Commission) read out an amendment submitted by Mr. van Boven for the insertion of the following new operative paragraph between operative paragraphs 1 and 2:

> "Decides to transmit the recommendations contained in his study, as revised in the light of the discussion at the present session of the Sub-Commission, to the Secretary-General to be taken into account in further efforts to combat racism and racial discrimination;".

33. Mr. SADI suggested that in the first line of the fifth preambular paragraph, the words "a revival" should be replaced by the words "an upsurge". The former word implied that racism had diminished, which it had not. He also suggested that in the first line of the sixth preambular paragraph the words "putting an end to" should be replaced by the word "eradicating"; and that in the first line of operative paragraph 2, the word "new" should be replaced by the word "additional".

34. Mr. GUISSE suggested that in the fifth preambular paragraph the word "religious" should be inserted at the end of the third line and the word "other" at the beginning of the fourth line should be deleted.

35. He wished to join the sponsors of the draft resolution.

36. Mrs. DAES said that if the word "religious" were added, the words "and linguistic" should be added as well.

37. Mr. ALFONSO MARTINEZ said that the amendments proposed by Mr. Sadi and by Mr. Guissé and Mrs. Daes were acceptable.

38. With regard to Mr. van Boven's amendment, he personally had no objection, but a specific question had been raised concerning the possible revision of

one of the recommendations in Mr. Eide's report (E/CN.4/Sub.2/1989/8/Add.1) in the light of ILO Convention No. 169, because there had been a number of criticisms of that Convention.

39. Mr. EIDE said that two of his recommendations in document E/CN.4/Sub.2/1989/8/Add.1 had attracted attention and as a result he proposed to modify recommendation No. 21 on the following lines: "Resolute steps should be taken to reverse the upsurge of racism confronting migrant workers. Governments of host countries should promote inter-community activities between migrant workers and the local population and advance cultural understanding between these groups. Members of host countries should be sensitized to accept and appreciate that migrant communities maintain their traditions in conformity with internationally recognized human rights."

40. With regard to recommendation No. 10 - to which Mr. Alfonso Martínez had referred - he maintained his recommendation, although some members of the Sub-Commission, as well as representatives of non-governmental organizations had expressed doubts, and Mrs. Daes had expressed uncertainty. He was not clear about the attitude of Mr. Alfonso Martínez.

41. Mr. van BOVEN said that Mr. Eide's statement had been useful. The Sub-Commission had not approved the recommendations in Mr. Eide's report - although that was not stated in the draft resolution - but in accordance with his own amendment they would be transmitted to the Secretary-General for further use. The Sub-Commission should distinguish between approval of draft resolutions, which would involve discussing them in detail, and transmitting them to the Secretary-General to take into account when making further efforts to prepare a programme to combat racism and racial discrimination. With that clarification, he could not see that the amendment would pose any major problems.

42. Mrs. WARZAZI said that it had been necessary for Mr. Eide to read out his revised recommendations so that she could see whether Mr. van Boven's amendment was acceptable. She was not yet satisfied by the proposed changes and wished to amend the text even further. There had been no "revival" of racism, which had been in existence for a long time. It would thus be better to say that racism was becoming a matter of serious concern.

43. Mr. ALFONSO MARTINEZ said that it was all to Mr. Eide's credit that he had decided to take members' comments into account since the conclusions and recommendations of a Special Rapporteur were his own.

44. Despite the fact that the Government of Cuba had voted in favour of the new ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169), he had serious doubts about the practical effectiveness of that instrument and had objected to the inclusion of the recommendation suggesting ratification of the Convention (recommendation No. 10, document E/CN.4/Sub.2/1989/8/Add.1) because he knew what the indigenous peoples actually thought of it.

45. Mrs. KSENTINI thanked Mr. Eide for having amended his recommendations, which he was in no way obliged to do. She suggested that members of the Sub-Commission should consult with him to improve the drafting of those of his recommendations that were causing problems, perhaps including a provision

concerning the protection of migrant workers. She could agree to the transmission of the revised recommendations to the Secretary-General.

46. Mrs. DAES supported the amendment put forward by Mr. van Boven. She believed that the points raised were covered by the words "as revised in the light of the discussions of the Sub-Commission at its present session".

47. Mrs. BAUTISTA requested that her name should be added to the list of co-sponsors of the draft resolution.

48. Mr. ALFONSO MARTINEZ said that the sponsors agreed to the amendment submitted by Mr. Sadi to replace the words "a revival of racism" in the fifth preambular paragraph by the words "an upsurge of racism". They accepted the amendments proposed by Mr. Guissé and Mrs. Daes to replace the words "ethnic, national and other minorities" in the same preambular paragraph by the words "ethnic, national, religious and linguistic minorities".

49. The sponsors accepted the amendment to the sixth preambular paragraph to replace the words "to putting an end to" by the words "to eradicate".

50. The sponsors accepted the new operative paragraph 2 proposed by Mr. van Boven. Lastly, the sponsors accepted the replacement of the words "a new" in the first line of operative paragraph 2 (now to be renumbered as operative paragraph 3) by the words "an additional".

51. He requested the secretariat to ensure that there was an exact correspondence between the English and Spanish versions of the draft resolution, in particular operative paragraph 1.

52. Draft resolution E/CN.4/Sub.2/1990/L.6, as amended was adopted.

(b) Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa (E/CN.4/Sub.2/1990/L.9)

Draft resolution E/CN.4/Sub.2/1990/L.9

53. Mrs. WARZAZI, introducing the draft resolution which was sponsored by 20 members of the Sub-Commission, said that Mrs. Bautista requested that her name to be added to the list of sponsors.

54. The draft resolution was similar to one adopted by the Sub-Commission at its forty-first session, but contained three new paragraphs. The first, a new penultimate preambular paragraph in the draft resolution addressed to the Commission on Human Rights, noted the initiative of the Prime Minister of South Africa on 2 February 1990, promising a new era in South Africa and an end to white domination; the second, a new operative paragraph 5 in the draft resolution addressed to the Economic and Social Council, called upon all Governments and organizations to maintain sanctions against the racist régime of South Africa until the total dismantlement of the apartheid system; and the third, a new operative paragraph 10 in the draft resolution addressed to the Economic and Social Council requested the Secretary-General to contact the

Government of South Africa with a view to enabling the Special Rapporteur to undertake a visit to South Africa on special mission within the perspective of the next update of the present report.

55. In view of the impressive number of sponsors she hoped that the draft resolution could be adopted unanimously.

56. Mrs. PALLEY and Mr. SACHAR requested that their names be added to the list of sponsors.

57. Mr. GUISSE and Mrs. ATTAH pointed out that the words "Prime Minister" in the third preambular paragraph should read "State President".

58. At the request of the CHAIRMAN, Mr. PACE (Chief, External Relations, Publications and Documentation, Centre for Human Rights) informed the Sub-Committee that the financial implications of the draft resolution would be $20,500 for each of the years 1991 and 1992. Those resources could be provided from the existing provision for the Economic and Social Council mandates under section 23 (Human Rights) of the programme budget.

59. Draft resolution E/CN.4/Sub.2/1990/L.9, as amended, was adopted unanimously.

Review of the work of the Sub-Commission (agenda item 3) (continued) (draft resolutions E/CN.4/Sub.2/1990/L.4 and 7)

60. The CHAIRMAN said that he would give the floor to Mr. Treat, a sponsor of draft resolution E/CN.4/Sub.2/1990/L.4.

61. Mr. JOINET, speaking on a point of order, said that, in agreement with Mr. Alfonso Martínez, he wished to request that a vote be taken on his motion to suspend rule 15 of the rules of procedure and to vote by secret ballot on item 6 of the Sub-Commission's agenda.

62. After a procedural discussion in which Mr. ALFONSO MARTINEZ, Mr. TREAT, Mr. JOINET, Mr. van BOVEN, Mr. DESPOUY and Mrs. PALLEY participated, the CHAIRMAN said that if he heard no objection, he would take it that the members of the Sub-Commission agreed that the motion of Mr. Joinet should be discussed before draft resolutions E/CN.4/Sub.2/1990/L.4 and L.7.

63. It was so decided.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1990/15, 16 and 49; E/CN.4/Sub.2/1990/NGO/2, 6, 10, 19 and 20; E/CN.4/1990/3, 24-27, 45 and Add.1, 50 and 55; A/44/620)

64. Mr. JOINET, introducing his motion, said that the discussion was going better than in 1989, when three preliminary votes had been necessary before

the Sub-Commission had arrived at the present stage. His motion was based on a deep reflection on the Sub-Commission's future role in the United Nations system.

65. There was apparently no disagreement regarding the Sub-Commission's status as a body of independent experts. Members of the Sub-Commission were elected, and not appointed as in the Commission on Human Rights or the Economic and Social Council. That fact already conferred a certain degree of independence. Pursuant to the arrangements made under Articles 55 (c) and 68 of the Charter of the United Nations, members of the Sub-Commission had a specific objective, and in the Sub-Commission's original mandate it had been decided that independence was required in order for that objective to be attained.

66. Since then, however, the Sub-Commission's mandate had changed considerably. It now really had two mandates. The first was to combat discrimination, and the second to promote the development of human rights. Over the years the Commission had made fewer and fewer calls on the Sub-Commission in respect of the prevention of discrimination and had made many other kinds of call on it, increasingly related to "sensitive" matters. Since the Sub-Commission was already independent, he was opposed to any text directly calling for its independence. However, with the increased number of sensitive matters to be dealt with, guarantees must be strengthened. That was all he was seeking to do. The Commission had become aware of the situation, because since 1946 it had gradually strengthened the independence of members of the Sub-Commission. It had decided, for instance, that alternates should be elected and should serve in a personal capacity. Also, the decision which the International Court of Justice had taken in 1989 was in keeping with what he was suggesting. It stressed that members of the Sub-Commission must have guarantees of their independence and must enjoy privileges and immunities in order to achieve the objectives of the United Nations.

67. In some cases the public manifestation of opinion had perhaps a stronger impact on the State concerned than a secret ballot, but difficulties, sometimes physical, had been experienced by several members of the Sub-Commission in the past; for example, collegues from Syria and Argentina had disappeared, and Mr. Mazilu had not been able to return to Geneva. He himself always took great care to consult with government observers, if possible in public, but he would like relations to be progressively moralized. Secret voting would help and would also promote better relations with the non-governmental organizations. He hoped that the Sub-Commission would support his motion, although he fully respected all those who did not share his point of view.

68. Mr. ALFONSO MARTINEZ, speaking on a point of order, requested a Spanish text of Mr, Joinet's proposal. He had only an unofficial text in French.

69. The CHAIRMAN observed that rule 78 of the rules of procedure did not include such a requirement. The best solution might be to ask Mr. Joinet to read out his motion slowly so that it could be interpreted and taken down by members.

70. Mr. ALFONSO MARTINEZ, speaking on a point of order, said that the problem had begun with the suspension of rule 59 of the rules of procedure. It had then been extended with the suspension of rule 60 on explanations of vote. It was inadmissible that the the process should be allowed to spread further. In no way did rule 78 suspend rule 52, according to which any proposal should be submitted in writing and discussed no earlier than 24 hours after copies had been circulated to all members. He was not asking for the 24-hour requirement to be observed, but it seemed irrational to extend further the practical effects of the suspension requested by Mr. Joinet, and he needed a Spanish version of the latter's proposal.

71. Mrs. WARZAZI, speaking on a point of order, said that she could not see what problem Mr. Alfonso Martínez was having with rule 60. If the Sub-Commission wished to suspend rule 59 because it wanted a ballot to be secret so that nobody would know how each member had voted, why was there any need for explanations of vote?

72. Mr. YIMER said that he understood Mr. Joinet's reasons for wishing to resort once again to rule 78 in order to suspend the operation of rule 59. He himself did not really mind whether the Sub-Commission voted by secret ballot or in public, although he favoured the latter. However, he did not believe that rule 78 was intended for the purposes to which by Mr. Joinet wished to put it. It was intended for use in exceptional circumstances where the Sub-Commission could not take action because of a procedural obstacle, not for a case where there was a draft resolution on a particular country that would be adopted if voted on by secret ballot and would not be adopted if the voting were public. In 1989, the Sub-Commission had resorted to rule 78 in order to be able to vote on a draft resolution by secret ballot, but the drafters of the rules of procedure would have been surprised by that. The solution was to incorporate a new rule which allowed the Sub-Commission to vote by secret ballot. Regular recourse to rule 78 would make the rules of procedure meaningless.

73. Mr. CHERNICHENKO said that rule 78 of the rules of procedure was open to both restrictive and broad interpretations. The English text of rule 52 stated that proposals and substantive amendments should normally be presented in writing; it made no mention of procedural motions, for which an oral presentation was usually sufficient.

74. Mr. van BOVEN pointed out that the Sub Commission was supposed to be discussing whether or not Mr. Joinet's motion should have priority but it had moved on to discuss the substance of the motion. As far as the latter was concerned, the discussion in 1989 had shown that although there were important arguments in favour, there were also arguments against. His own view was that if the Sub-Commission resorted to rule 78 of the rules of procedure, it should not do so repeatedly on an ad hoc basis. A formal basis for the procedure must be provided in some way or other. He saw Mr. Joinet's motion in the light of the draft resolution submitted by Mr. Treat and himself. It would be logical and consistent to adopt Mr. Joinet's motion and at the same time put forward to the Sub-Commission's parent bodies a proposal to formalize the situation.

75. Mr. ALFONSO MARTINEZ, referring to Mr. Chernichenko's comment on rule 52, said that the Sub-Commission obviously had a proposal before it. Moreover, rule 78 stated that the rules of procedure might be suspended "provided 24 hours notice of the proposal for suspension had been given". Rule 52 contained requirements for the consideration of "proposals and substantive amendments". So it was clear that what was involved was a proposal subject to the rule that it must be submitted in writing.

76. From his reading of the French text of Mr. Joinet's proposal, it was clear that the latter did not meet the requirements of the last sentence in rule 78, which stated: "Any such suspension shall be limited to a specific purpose and to a period required to achieve that purpose". Mr. Joinet's text stated that suspension was limited to the "dureé nécessaire" for the vote on the draft resolutions submitted under agenda item 6. Would that be for the current session only, or for always? Mr. Joinet might wish to clarify that point.

77. As far as the substance was concerned, it was dificult to add anything to what Mr. Yimer had said. It should, however, be stressed that to make a de facto amendment to the rules of procedure through the process that had been initiated was wholly inappropriate. Under the rules of procedure, the rule on voting could be amended only by the Economic and Social Council. If a change was needed, it must be made in proper form. Moreover, the United Nations Legal Advisor had stated, in an advisory opinion, that votes by secret ballot would be taken only if the decision to do so was reached by general agreement or when the question was akin to an election, which was not the case. In 1989 a secret ballot had apparently been used to achieve the approval of a draft resolution concerning China; in 1990 the country concerned was apparently to be Iraq. What country would it be next year? The Sub Commission should not resort to such a procedure. Any attempt to flout the rules of procedure would rebound on it and discredit it in the eyes of its parent bodies.

78. Mr. JOINET explained that "dureé nécessaire" meant the duration of the session. As far as the need for general agreement was concerned, he pointed out that in only one instance did the rules of procedure indicate the specific number of votes needed for a draft resolution to be adopted - in rule 5 (iv) (b) (ii); in all other cases the general rule applied.

79. Mr. DESPOUY moved that, under rule 50 of the rules of procedure, the debate be closed.

80. The CHAIRMAN pointed out that, under rule 50, permission to speak on the motion to close the debate could be accorded only to two members opposing the closure.

81. Mrs. PALLEY said that she was opposed to closure because she had some comments to make on the legal aspects of the situation.

82. Mr. ALFONSO MARTINEZ said that he, too, was opposed to closure. The fact that the Sub-Commission had already discussed the matter in 1989 did not prevent it from doing so again in 1990, since there were a number of new members who were unaware of what had been said in 1989. Moreover, to close the debate would be contrary to freedom of expression. He requested that the vote be taken by roll call.

83. A vote was taken by roll-call on the proposal by Mr. Despouy.

84. Mr. Maxim, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Mr. Despouy, Mr. Eide, Mr. Joinet, Mr. Maxim, Mr. Suescún Monroy, Mrs. Warzazi.

Against: Mr. Alfonso Martínez, Mrs. Attah, Mrs. Bautista, Mr. Guissé, Mr. Hatano, Mr. Heller, Mr. Ilkahanaf, Mr. Khalil, Mrs. Ksentini, Mrs. Palley, Mr. Saboia, Mr. Sachar, Mr. Tian Jin, Mr. Treat.

Abstaining: Mr. van Boven, Mr. Chernichenko, Mrs. Daes, Mr. Yimer.

85. The proposal by Mr. Despouy was rejected by 14 votes to 6, with 4 abstentions.

86. Mr. ILKAHANAF said that since there was no consensus or general agreement, to close the debate would have served no purpose.

The meeting rose at 6.10 p.m.

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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE 19th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 August 1990, at 10 a.m.

Chairman: Mr. TÜRK

later: Mr. HATANO

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Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: Report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) (continued)

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Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.90-12834/2546B

The meeting was called to order at 10.35 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1990/15, 16 and 49; E/CN.4/Sub.2/1990/NGO/2, 6, 10, 19 and 20; E/CN.4/1990/3, 24-27, 45 and Add.1, 52 and 55; A/44/620)

1. Mrs. ATTAH said that the international community should explore further, more effective means or more efficient monitoring of the implementation of the two International Covenants and other human rights instruments. She reiterated her call for assistance to be given to developing countries to enable them to establish human rights bodies or equivalent organs which would be entrusted with the task of disseminating information on human rights and which victims of violations could approach for redress.

2. She considered that the practice of each year hearing numerous non-governmental organizations criticize a few countries was counter-productive, since it merely served to alienate those countries and to frustrate the changes which the international community expected of them. In her opinion, what was needed in both the Sub-Commission and the Commission on Human Rights was constructive criticism devoid of any political motivation or selectivity and which would genuinely benefit the victims of human rights violations in those countries.

3. The role of non-governmental organizations in the Sub-Commission was invaluable. In fact, in most cases, those organizations constituted sources of first-hand information on human rights violations. However, she found it unacceptable when some individuals used those organizations in order to mislead the Sub-Commission by making unsubstantiated allegations against their Governments.

4. With regard to violations of human rights and fundamental freedoms, in particular in colonial and dependent countries and territories, she noted that violence was increasing daily in South Africa because of the brutality of the South African security forces which were opposed to democratic change in that country. She hoped that the draft resolution on that question, which highlighted the Sub-Commission's concern over the maintenance of the pillars of apartheid and the hardship and violations to which the blacks were subjected daily, would be adopted by consensus.

5. The situation in the Arab territories occupied by Israel also continued to be a matter of concern. She was firmly convinced that the settlement of Soviet Jews in the occupied Palestinian territories by Israel was a violation of the rights of those Palestinians and only served to heighten tension among the population. It was regrettable that the efforts to persuade the Israeli Government to negotiate with the PLO had yielded no result.

6. She deplored the recent unfortunate incidents in the Gulf. The violation of the sovereignty of a Member State of the United Nations by another Member State was contrary to Article 2, paragraph 4, of the Charter of the United Nations. She called on all the parties involved in the Gulf crisis

to exercise restraint and to endeavour to find a peaceful solution. It was highly regrettable that migrant workers had lost all the savings they had accumulated in Kuwait.

7. The fact that she had not mentioned the situation in Lebanon, Cyprus and many other countries where human rights violations were taking place did not mean that she was not concerned with them, but that they had already been dealt with by other speakers. She thought that in order to promote the enjoyment by all peoples of human rights, the international community, as well as regional groups, should seek to intervene to a greater extent in countries where those problems existed, especially in the third world. In that regard, she paid a tribute to the Latin American States which had done much along those lines.

8. In conclusion, she appealed once again to the Governments of countries with indigenous populations to establish a body to which they could appeal if their rights were being violated in order to obtain redress rapidly. The Sub-Commission had a special responsibility in their regard.

9. Mrs. DAES, referring to the human rights situation in Cyprus, noted that although Turkey had occupied over 37 per cent of the island's territory for nearly 16 years, the Turkish Government had not yet taken any steps to restore some of the human rights and fundamental freedoms of all Cypriots, despite the appeals made by the European Commission of Human Rights, which had condemned unanimously the serious violations of the human rights provisions contained in the European Convention and the International Bill of Human Rights. For example, 1,619 persons who had disappeared following the invasion were still missing, and it had been proved that Turkey was solely responsible for their fate. Yet that country continued to ignore all the efforts made by the international community to obtain information on those persons. Moreover, Turkey had expelled nearly 200,000 Greek Cypriots from lands belonging to them in the northern part of the island. Those persons had been deprived of their fundamental right to own property and the right to use and dispose of it freely.

10. As was well known, Turkey wished to become a member of the European Community, which had been built, inter alia, on the fundamental principle of freedom of movement and establishment of persons as well as the freedom of persons and companies to offer services in the 12 member States. It was therefore difficult to understand how Turkey could justify its application, while it prevented Greek Cypriots, on racial and political grounds, from moving freely within their own country. Furthermore, Turkey was pursuing a policy of demographic manipulation in Cyprus in an attempt to create illegally on the island two separate States divided on racial grounds. To that end, after having expelled Greek Cypriots from their homes in the north of Cyprus, it had installed there about 80,000 Turks from Anatolia, a measure against which not only the Greek Cypriots but also Turkish Cypriots had strongly protested. In addition to those settlers, there were 37,000 Turkish soldiers stationed in the occupied areas.

11. She wished to stress that the list of human rights violations committed by Turkey against Greek Cypriots enclaved in the Turkish part of the island was quite long. The international community had on several occasions almost unanimously condemned Turkey for those violations, without obtaining any positive response from that country.

12. The destruction of Christian and Hellenic monuments was a significant feature of Turkey's military occupation. Religious property was a particular target in an attempt to destroy the cultural heritage and very identity of Greek Cypriots, especially in the occupied area. Even archaeological museums and sites did not escape vandalism and looting. In her opinion, all those acts amounted to a veritable cultural ethnocide. She therefore fully supported the efforts being made by the Secretary-General in the context of his good offices mission and expressed the hope that Turkey would finally decide to respect all the relevant resolutions of the competent United Nations bodies, including Security Council resolution 649/90 on Cyprus.

13. She wished to pay a tribute to the memory of the former diplomat Professor Kazem Rajavi, assassinated at Coppet, Switzerland, on 24 April 1990. Professor Rajavi had been a defender of human rights and had made an important contribution to the work of the Sub-Commission and the Commission. She was profoundly disturbed by his assassination, which had followed the statement he had made at the previous session of the Commission on Human Rights concerning grave infringements of human rights in Iran. She proposed that the Sub-Commission should strongly condemn that assassination and any similar attack against other persons, in particular members of non-governmental organizations active in the promotion and protection of human rights in the world.

14. The discouraging picture presented by Amnesty International in its report for 1989 emphasized the need for urgent action by the United Nations with regard to the protection of human rights. In the report, of the 159 States Members of the United Nations, 142 were mentioned for various violations of human rights, which meant that millions of persons in the world continued to be victims of inhuman treatment, torture, oppression and persecution. They included persons belonging to minorities, indigenous peoples, Romanis, Kurds, etc. She would like to draw the Sub-Commission's attention in particular to the oppression and exploitation of children around the world. She reserved the right to make a more detailed statement on that subject under agenda item 19.

15. The report and relevant studies by the Secretary-General and the special rapporteurs revealed an equally disquieting situation, and, in that regard, she expressed particular concern over the establishment of Israeli settlements in the occupied Arab territories. It was also regrettable that a group of Israelis had even attacked the patriarch of the Greek Orthodox Church in Jerusalem and illegally occupied one of the buildings belonging to that Church, which they refused to evacuate despite the verdicts of Israeli courts.

16. With regard to the human rights situation in Albania, she was pleased to note that the Government of that country had sent an observer to the session of the Sub-Commission. She hoped that the democratization which had begun in Albania would be continued, for serious violations of human rights still took place there. She also wished to recall that the Albanian Government had not yet implemented Commission on Human Rights resolution 1989/69 entitled "Situation of human rights in Albania".

17. She wished to reaffirm her great concern about the situation in East Timor where, despite the actions of the Sub-Commission, violations of human rights continued to be committed. The Sub-Commission should therefore

express its serious concern in that regard. In that connection, she thought that mention should be made of General Assembly resolution 37/30, which Indonesia continued to ignore.

18. Mr. SABOIA noted that the Sub-Commission had endeavoured, in accordance with its mandate, to assess with objectivity and impartiality the information provided by Governments and non-governmental organizations and to give expert guidance to the Commission on Human Rights on the measures to be taken in order to remedy the violations denounced. Accordingly, it had adopted resolutions and decisions, but had also appointed special rapporteurs and representatives to monitor special situations. That practice had proved to be extremely helpful, since it had enabled first-hand information to be obtained on the situations in question, while promoting co-operation with Governments and other interested parties in the search for constructive solutions to the problems involved.

19. There was, however, a continuing need to reflect on the best ways and means of ending human rights violations. The non-governmental organizations should also, as they had been requested to do, make their own assessment of the situations they brought to the attention of the Sub-Commission, understand the difficulties faced by Governments and recognize that they were not necessarily the only parties responsible for those situations. In recent years, a noticeable feature had been the growing influence of certain social groups and economic interests concurrently with the decline of totalitarian régimes. What was needed at the present time was to look beyond the legal and political structure of States for the explanation of the continuing violations of human rights and to find solutions, particularly with regard to the protection of economic, social and cultural rights.

20. The speed with which co-operation and peaceful economic competition had been established between the two super-Powers was a fair indication that the cold war confrontation was no longer in keeping with the reality of the modern world. The cold war had, of course, given rise to many conflicts and flagrant and systematic violations of human rights which the Sub-Commission was still called upon to consider, but those problems also had other causes - underdevelopment, poverty, ignorance, etc., which still remained to be eliminated. Those causes constituted in themselves flagrant and systematic violations of human rights and were also a source of new ones (violence, terrorism, drug trafficking, etc.) which undermined the foundations of any pluralist democratic society.

21. The market-place had replaced State socialism and it was in terms of the market that resources were allocated and economic and social measures were taken. However, the market-place was not a single factor, since, first of all, it consisted not only of rich countries but also of former colonies and developing countries affected by inequality and injustice and, secondly, the developed countries also had problems such as spiritual and cultural impoverishment caused by excessive consumption, destruction of the environment and the influx of people from other countries attracted by the very forces of the market. That influx caused racist reactions which in turn fostered religious extremism.

22. The premise of universal human rights was the equality of human beings and common values and aspirations. However, that community of values and aspirations could not survive in a world dominated by poverty, and human rights violations were merely symptoms of a reality characterized by inequality. Those violations could not therefore be dealt with as a separate problem, independently of their relationship with the persistent denial of economic, social and cultural rights and the right to development.

23. Mrs. WARZAZI pointed out that consideration of agenda item 6 was prepared and followed with sustained attention by all concerned, observers of States, non-governmental organizations, and experts. The number of complaints and information concerning human rights violations was steadily increasing, improvements noted in one area were offset by deteriorating situations elsewhere and senior officials, even with the best intentions, frequently came up against a shortage of resources, especially with regard to the possibility for people to defend their rights against others. There was still a large legal void which every country had to fill in the light of its own situation. Some non-governmental organizations ignored that point, had insufficient contacts with the populations concerned, and even tried to replace national non-governmental organizations. They also lacked the spirit of impartiality and caution which should govern their activities. Sometimes they forgot that they had to defend the peaceful expression of opinion and not expressions which entailed violence or constituted incitement to violence.

24. One non-governmental organization, which had become a kind of multinational for the defence of human rights did not, however, have the right to behave everywhere as if it were in conquered territory and must observe certain rules of courtesy in countries which it had been permitted to visit. It must also guard against a kind of international amnesia, overlooking or playing down cases of violation observed in certain countries and describing them as unfortunate mistakes or slips, and then proceed to heap abuse on other countries and stir up international public opinion against them. It should use the considerable resources available to it for more worthy causes such as the thousands of human beings - particularly children - who were being tortured, persecuted, expelled, poisoned and so on and prefer, lastly, the testimony of persons involved in politics to that of members of the opposition.

25. Although there were some non-governmental organizations that were not blameless, she nevertheless wished to pay a tribute to the many others which, without substantial resources and at the cost of daily sacrifices, were doing admirable work that should be encouraged. All of them should always bear in mind the hope that they represented for the have-nots of the world.

26. Mr. DESPOUY said that when it examined agenda item 6, the Sub-Commission was considering violations of civil and political rights but essentially the former and that it would be interesting to study the relationship between the two categories of rights. He recalled that when the Latin American countries had been under the yoke of military dictatorships in the 1970s, the Inter-American Commission on Human Rights had stressed on several occasions that the denial of political rights was one of the causes of the deterioration of other human rights. Experience, in Latin America at least, would tend to prove that the recovery of political rights should be accompanied by an

improvement in the field of civil rights. Therefore, political rights should not be subordinated to civil rights or vice versa, as sometimes happened in the Sub-Commission, but each of those two categories of rights should be defined so as to enable their interdependence to be measured more accurately.

27. In the countries of the East, an exhilarating but complex transformation was taking place, the main features of which were political rights. In Africa, it seemed that the question of political rights was reflected in the debate on the multi-party system, whether in Kenya, Gabon, Togo or the Côte d'Ivoire. In the Latin American countries, the recovery of political rights was accompanied by an improvement in civil rights. At the same time, there had appeared, however, "weak" democracies, the results of free elections, which were at the present time confronting powerful armed groups determined to destabilize them. In addition, there was the drug traffic, an extremely disturbing phenomenon, whose impact on political life and the human rights situation the Sub-Commission had been able to observe. The new régimes also faced, within the State, a rather autonomous, strong and structured military power, which opposed the efforts they were making to govern by democratic methods. Lastly, poverty and an enormous foreign debt undermined the exercise of rights, whether political, social or cultural. That showed the scope but also the limits of the partial results achieved in a specific category of human rights and the need for an in-depth examination of all those rights.

28. With regard to the role of the Sub-Commission, he noted that after many years of perseverance in some instances, its activities were beginning to bear fruit in various countries such as El Salvador, Colombia or Sri Lanka and that in the existing climate of détente it was the duty of the Sub-Commission to take advantage of the opportunities offered it. He wondered, for example, whether it could help the authorities to settle the problem of Nagorno-Karabakh, either by itself or through the intermediary of the Special Rapporteur entrusted with the question of minority protection.

29. The Sub-Commission could also have a preventive role. In Cambodia, for example, a serious upsurge of violence was occurring and the armed groups which had been so murderous in the past were returning to the scene. The Sub-Commission should abandon the confidential tone it frequently adopted and condemn loudly and vigorously not only the foreign occupation but also any return to the barbaric repressive practices pursued by the Khmer Rouge under the Pol Pot régime.

30. Mr. GUISSE, speaking on a point of order, complained that the relevant documents were distributed only in English since he would like to be able to study them in French.

31. Mr. SUESCÚN supported Mr. Guissé since he considered it indispensable, before the debate was begun on any item, for the relevant documents to be available, not only in English and French but in all the working languages.

32. The CHAIRMAN said that he would ask the Secretariat for an explanation in that regard and would subsequently report to the Sub-Commission on the situation concerning documentation.

33. Mr. ILKAHANAF said that the many documents before the Sub-Commission and the information provided by various non-governmental organizations, indicated that violations of human rights had steadily increased since the Sub-Commission's previous session as regards the kind of incidents and the number of people affected. While some progress had been made in South Africa, the situation in Palestine had not yet been resolved and had even worsened during the past year. It was the duty of the Sub-Commission to support the Palestinian people in their struggle against the systematic denial of all their rights.

34. In that connection, he regretted that the non-governmental organizations, which played a very important role in the Sub-Commission, did not always take account of the degree of gravity and priority of the situations they denounced. Some described in detail cases of illegal detention or religious intolerance in some countries but failed to mention that veritable massacres were being committed in many parts of the world. No organization had, in particular, spoken of the current situation in Africa, with the exception of the Minority Rights Group. Amnesty International, which was well known and appreciated for its business-like approach, had stressed the situation of prisoners of conscience without referring to the assassinations, disappearances and executions which had taken place during the year in some areas. Without wishing to discourage the non-governmental organizations, he urged them to deal with the most serious situations as a matter of priority.

35. Recent changes in the Eastern European countries were encouraging and it was to be hoped that they would have an influence on the situation of developing countries with regard to respect for human rights. It would be, however, regrettable if some of those countries went from one extreme to the other and changed entirely their relations with other countries. He was thinking in particular of the rapprochement between South Africa and Hungary and the large-scale emigration of Soviet Jews to occupied Palestine. The right of every person to leave a country and to travel to another country should be respected, provided that that right was not exercised to the detriment of the rights of the citizens of the host country. If the object of the emigration of Soviet Jews to Palestine was to drive the Palestinians from their lands in order to replace them with new arrivals, the international community should reject such a policy and call on the Soviet Union to refuse to co-operate.

36. With regard to his visit to Iraq, he recalled that at its previous session, the Sub-Commission had decided not to take a decision on a draft resolution concerning the situation in that country after the Iraqi Human Rights Association had invited members to visit Iraq. He himself had replied to that invitation and it was only upon his arrival in Iraq, on 22 April 1990, that he had learned that four members of the Sub-Commission had requested that the visit should be postponed to a subsequent date. He wished to make it clear that his visit, which he had made independently of the other members of the Sub-Commission present in Iraq, had therefore been essentially private, and that, consequently, he was not obliged to report on it to the Sub-Commission.

37. He wished to state, however, that during the three days he had spent in Iraq, he had met the President of the National Assembly, the Ministers of Justice and of the Interior, and the Deputy Minister for Foreign Affairs, the President of the Iraqi Bar Association as well as the Chairman of a Kurdish local assembly. He had put several questions to them concerning various allegations of human rights violations made against Iraq particularly with regard to the situation of political prisoners and the massacre of Kurdish civilians as part of a deliberate policy of extermination. The replies he had received had varied from categorical denials to explanations and justifications. He had been told, in particular, that the National Assembly supervised the Government's activities and permitted no unlawful actions, that human rights and fundamental freedoms were guaranteed by the Constitution, that no persons were being detained in Iraq because of their political convictions and that the death penalty was imposed only in cases of murder, drug trafficking or espionage. With regard to the Kurds, he had been informed that some Kurds had collaborated with Iran during the war and had left the country at the same time as the Iranian forces, that the persons moved from some areas near the front had received $10,000 in compensation and that the Kurdish regions had enjoyed, since 1974, an autonomous status, which other communities did not have, and managed their own affairs independently of the central Government. A new constitution would soon be promulgated which would guarantee freedom of association and expression and recognize the multi-party system principle. Furthermore, article 50 of the Penal Code had restricted the competence of the National Security Tribunal to offences constituting a breach of national security and to questions of espionage and drug trafficking, but he had not been told exactly what constituted a breach of national security. Furthermore, he had been informed that accused persons received legal aid in all cases. A member of the Union of Arab Jurists who was present had recognized, as the observer for that organization had stated at the forty-first session of the Sub-Commission, that massive violations of human rights were committed in many countries members of the Arab League, but had denied that such was the case in Iraq.

38. He had also visited the Kurdish village of Halabja where thousands of persons had been killed by chemical weapons. He had been struck by the fact that not a single building remained intact in the entire village. The local authorities had said that the Iranian forces had destroyed everything at the time of their withdrawal and that they had also used chemical products, as was attested by the sorry state of the trees. A new town had been built nearby and all the inhabitants of Halabja had been adequately rehoused there and given compensation.

39. In conclusion, he said that what he had seen or heard in Iraq was certainly not enough to confirm or refute the allegations of massive violations of human rights in that country, particularly since he had not heard the version of the authorities.

40. Mr. Hatano took the Chair.

41. Mr. HELLER said that throughout the 1980s, the deterioration in the situation of human rights and fundamental freedoms in many areas of the world had been accompanied by an escalation in regional conflicts and a breakdown in standards of international coexistence. However, processes of change were currently under way and the search for solutions to problems of human rights violations should be one of the main considerations of the new world policy.

The various multilateral entities concerned with human rights had at the present time the possibility of discharging their mandate in a humanitarian and constructive spirit.

42. However, détente in international relations did not automatically bring about improvements in the field of human rights. The study of item 6 showed that the situation remained extremely serious in certain cases and that the issue of human rights violations stemming from the violation of international law was still topical. It must also be borne in mind, that progress towards peace had no counterpart in international economic relations and that the crisis in that sector hampered efforts at democratization and even jeopardized the maintenance of institutional régimes in developing countries. There was also the emergence of new phenomena which had a negative impact on human rights, such as drug trafficking and terrorism. However, human rights violations should not be mistaken for a chronic illness of the developing world and political systems considered to be archaic, since they also occurred in countries developed at the political, economic and legal levels, in the form of such practices as racial discrimination, xenophobia and social inequality. Moreover, all too often, the weapons used to violate human rights came from the civilized world, such as chemical weapons, and it would be useful if the Sub-Commission analysed the links between human rights and policies concerning the export of arms to regions or countries involved in a conflict.

43. It was, however, encouraging to note that a number of Governments were beginning to acknowledge the existence of certain problems in their country and to co-operate to a greater extent with human rights bodies as well as with the most reliable non-governmental organizations. Some had even set up national bodies to formulate a policy for responding effectively to the specific situations which they had to face.

44. In general, the international community was aware of the need to put an end to massive and systematic infringements of human rights, wherever they occurred, which constituted a threat to international peace and security. Nevertheless, doubts were beginning to be harboured about the effectiveness of existing systems, notably within the United Nations, for combating those violations. The problem was one that could not be resolved at the level of the Sub-Commission, since it required the formulation, by States, of a programme of action compatible with the principles of the Charter of the United Nations. Furthermore, the situation in some countries could not be considered in the abstract without taking account of the specific characteristics of each of them and the problems which they confronted. Those were realities that had to be taken into account by the international bodies, which should perhaps help to establish a climate conducive to respect for human rights and not confine themselves to condemning those responsible for the most flagrant violations without their action necessarily resulting in a substantial improvement in the enjoyment of those rights. Those were questions on which the Sub-Commission should reflect.

45. With regard to the situation in the Latin American countries, which had long preoccupied the international community, it was to be noted that negotiations begun, in April, between the Salvadorian Government and the Frente Farabundo Martí para la liberación nacional (FMLN), with a view to resolving the conflict had resulted in the conclusion, on 26 July, of a partial agreement concerning the human rights recognized by the Salvadorian

legal system, particularly in the treaties to which El Salvador was party and in the instruments adopted by the United Nations and the Organization of American States. The parties had decided that implementation of that agreement would be monitored by a United Nations body, which was an unprecedented step. The viability of that agreement was linked to the progress made in other areas with which the negotiations were concerned and it was therefore essential to encourage that negotiating process and the implementation of the measures taken on 26 July.

46. In Guatemala, despite continued serious human rights violations, the various sectors of Guatemalan society had begun a dialogue through the National Reconciliation Commission, which itself had met with representatives of the Guatemalan National Revolutionary Union (URNG). The appointment of Mr. Tomuschat, as representative of the Secretary-General entrusted with the task of examining the human rights situation in Guatemala, and the continuation of the advisory services programme being implemented in that country would no doubt make it possible to follow closely the development of a situation which was of concern to the international community.

47. Mr. Türk resumed the Chair.

48. Mr. CHERNICHENKO said that he was impressed by the amount of information received on the various countries and regions in the world under agenda item 6. He deplored, nevertheless, the fact that the Sub-Commission was once again discussing certain questions which the Commission on Human Rights, the Third Committee of the General Assembly and the Economic and Social Council had already examined in depth. It was of course useful to speak loudly and forcefully, but superfluous duplication between the Commission on Human Rights and the Sub-Commission must be avoided, and members should give some thought to ways and means of improving methods of studying that mass of information. The discussion would be useful only if it led to action. The Sub-Commission had a decisive role to play in elaborating stricter standards in the field of human rights by adopting thematic resolutions, on the one hand, and by preparing for the Commission on Human Rights a report on violations of those rights in various parts of the world, on the other.

49. He stressed that the Sub-Commission's work should be carried out within a strict legal framework. To apply working methods that were too flexible involved the risk of politicizing the debate which was something the Commission and the Sub-Commission were trying to avoid. It was, however, impossible to resolve all problems immediately and the Sub-Commission should therefore proceed by stages. He proposed that first the Sub-Commission should adopt, for consideration by the Commission, on the item under consideration a general thematic resolution on violations committed in various parts of the world by referring to the summary records. It was doubtless difficult to suddenly stop drafting resolutions on the situation in specific countries but an effort should be made to keep that kind of resolution for unusually serious situations.

50. It would then be appropriate for the Sub-Commission to prepare a comprehensive report based solely on the information considered during the session. There would be nothing to prevent the report from being supplemented subsequently by additional information, according to procedures decided subsequently, in order to give it universal scope gradually.

The Sub-Commission might then refrain from adopting resolutions on specific cases and abandon the procedure for considering communications established in Economic and Social Council resolution 1503 (XLVIII).

51. It would then be for the Commission to evaluate the information contained in the comprehensive report and to decide whether or not it reflected the true situation. He pointed out to those who might object that the Sub-Commission would thus be passing off one of its responsibilities on to the Commission, that his proposal merely sought to depoliticize the Sub-Commission's debates as much as possible, since the Commission already had to face up to that risk when it adopted resolutions on the situation in a particular country.

52. He also thought that a suggestion should be made to the Commission that it appoint a general special rapporteur to verify the information contained in the comprehensive report and to report on specific situations. The special rapporteur could be helped in his task by assistants. The possibility of setting up a group of assistants to help them within the Secretariat might even be considered. The Sub-Commission might thus economize on several special rapporteurs, if not all of them. That system might enable the Commission, which would have before it a comprehensive report, to make a more objective analysis of the various situations placed within their proper context.

53. In order to depoliticize debates, the Commission could confine itself to taking note of the general special rapporteur's recommendations and follow them up only in cases where an inquiry procedure was envisaged.

54. He would like to ask the Under-Secretary-General for Human Rights whether the United Nations had established any method of evaluating human rights violations. In that connection, he referred to the experience of the Diplomatic Academy of the USSR where efforts were being made gradually to establish links between human rights violations and certain characteristics of internal or international conflicts. The United Nations was of course not authorized to intervene in an internal conflict, but whenever a violation of human rights was committed, that conflict then came within the competence of the Commission or the Sub-Commission.

55. Mr. URRUELA PRADO (Observer for Guatemala), making a statement equivalent to a right of reply, said that he wished to stress that for his Government, respect for human rights was not a political objective but a reality and that it was striving to protect them and to promote tolerance through dialogue, discussions and freedom. He recalled that presidential, legislative and municipal elections would be held in Guatemala on 8 November 1990. The new President would take office on 15 January 1991.

56. In a spirit of tolerance, the National Reconciliation Commission had organized negotiations with the rebel groups in keeping with the Esquipulas II peace agreements. Agreements had also been reached recently between nine recognized political parties and the armed opposition organization of Guatemala through the intermediary of the National Reconciliation Commission and the Guatemalan authorities and the assistance of the United Nations Secretary-General. Members of the Guatemalan Employers' Association (CACIF) and the Guatemalan National Revolutionary Union (URNG) were to meet in Ottawa at the end of the current month. There were plans for a representative of the Secretary-General to take part in that meeting.

57. Guatemala was suffering, however, not only from a serious economic recession, capital outflow, a fall in export prices, and unfavourable conditions in the Central American common market paralysed, so to speak, by the external debt accumulated under the previous totalitarian régimes, but also from twin evils which, as the Commission on Human Rights had stressed in its resolution 1990/75, were the cause of serious human rights violations, namely, drug trafficking and terrorism.

58. Lastly, he agreed with the opening statement by the Chairman of the Sub-Commission, in which he had observed that democracy and human rights were natural allies and that the progress made towards democracy indicated that the struggle for human rights would soon be successful.

59. Mr. WALDEN (Observer for Israel), making a statement equivalent to a right of reply, said that in view of the attacks made against his country by the members of the Sub-Commission who criticized its presence in the territories it had been occupying for the past 23 years, he was duty-bound to point out that his country had been forced to take those territories following a war which had had no other objective than the elimination of the State of Israel. If it had lost that war, the experts would not be meeting to discuss the occupation by the Arab States of Israeli territory since there would have been no Jews or State of Israel in the region.

60. To those who thought that his country alone was responsible for the failure to negotiate a settlement, he wished to point out that the Camp David accords, signed in 1977 by Israel, Egypt, and the United States, provided for the opening of negotiations with the Arab States and with the Palestinians for the purpose of achieving a final settlement. However, those accords had been strongly contested by the majority of Arab States not because they seemed to be unacceptable but because the idea of negotiation with Israel was anathema to them. That attitude was still widely held in the Arab world.

61. Israel was not fighting for territory but for its survival. Could anyone who had heard Mr. Khalifa's statement believe that he would accept the existence of the State of Israel under any conditions, since he refused to recognize that State's sovereign right to absorb Jews from the USSR? It was evident, however, that those immigrants were not settling in the administered territories, but within the pre-1967 lines. Mr. Khalifa really feared, as did many other Arabs, the strengthening of Israel. If anyone regarded that as a threat to the Palestinians, it was because they regarded Israel's very existence as a threat.

62. The intifada was an attack against Israel's existence and not against its presence in the territories; the manifestos of the leadership of the intifada made that quite clear. That movement obliged Israel to use force to maintain order. Furthermore, it was widely claimed that Israel was causing women and children to suffer injuries. He had recently spent two weeks in his country during which he had read in the press articles describing the killing of Jewish women and children as well as the murder by intifada terrorists of 200 Arabs suspected of collaboration with Israel. There had been a remarkable silence about those events. In his opinion, it was not fair to hear complaints from only one source, and the Sub-Commission was therefore being used in the propaganda campaign directed against Israel.

63. Mr. CISSE (Secretary of the Sub-Commission) said that the draft report of the Working Group on item 6 which had just been circulated to members of the Sub-Commission in English would be translated into the other working languages only after it had been approved by the Working Group.

64. The CHAIRMAN informed members who wished to consult the confidential files on agenda item 9 that they were henceforth available to them.

65. Mr. ALFONSO MARTÍNEZ asked whether, during his absence, the note on the procedure for accrediting representatives of non-governmental organizations which he had requested from the Secretariat had been distributed.

66. The CHAIRMAN said that the note by the Secretariat would be communicated to members during the afternoon meeting.

The meeting rose at 1.05 p.m.

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE FIRST PART */ OF THE 20th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 August 1990, at 4 p.m.

Chairman: Mr. TURK
later: Mr. TREAT

CONTENTS

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) (continued)

* The summary record of the second part of the meeting appears as document E/CN.4/Sub.2/1990/SR.20/Add.1.

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The meeting was called to order at 4.25 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1990/15, 16 and 49; E/CN.4/Sub.2/1990/NGO/2, 6, 10, 19 and 20; E/CN.4/1990/3, 24-27, 45 and Add.1, 52 and 55; A/44/620)

1. Mr. EIDE recalled the Sub-Commission's mandate as given in Commisson resolution 8 (XXIII), and said that, as experts, the members should try to identify trends and problem areas. That was what he proposed to do.

2. The main problem was not always with the Government. Governments were sometimes faced with situations in which social or ethnic groups were involved in violent confrontation and a Government seeking to protect human rights might find itself in a very difficult situation. In other situations, Governments might be split between those who sought peaceful, democratic and pluralistic solutions, with tolerance and respect for human rights, and those who insisted on repressive and violent measures in order to maintain a socially unjust economic order or ethnic dominance or an intolerant system based on narrow ideological or religious convictions. In other cases Governments rode high waves of nationalist passion giving rise to expansionism, or authoritarian rulers clung to power when faced with broad popular demands to step down.

3. It was sometimes alleged that human rights were a Western or European product imposed on the rest of the world. That was an incorrect perception. In fact, human rights had been developed as a kind of protective platform against barbarism, authoritarian rule, misgovernment and totalitarian régimes. It should never be assumed that the West - or Europe - had always been perfect and would remain so: that would fly in the face of past and present reality.

4. He had identified a number of different kinds of situation which should give rise to different kinds of response. At one extreme there was withdrawal: the total rejection of human rights values. The most serious example of that, in his opinion, was the situation in Cambodia, where a group of people had committed what he would call the second Holocaust - the massive killings that had taken place under the Khmer Rouge between 1975 and 1978. He would be submitting a draft resolution urging that the Sub-Commission should do everything in its power to ensure that those people never returned to power.

5. That extreme rejection of all human values was also apparent in at least one other movement - that of the Sendero Luminoso in Peru. There again, the response should not be directed against the Government but against fanaticism, the misuse of a sense of social injustice for totally irrational purposes which violated the whole range of human values.

6. The other type of situation, which had been faced in the past, though less so recently, was the situation that had emerged as the outcome of Marxist ideology, which had started as a genuine concern with social justice but had degenerated into a game of make-believe. By directly controlling freedom of

expression and freedom of information, two goals had been pursued simultaneously: to give a rose-coloured account of the country's own society; and to maintain a misleading image of injustices in other States. The tremendous reassertion of pluralist democracy in Central and Eastern Europe and the Soviet Union was a positive event for which everyone should be extremely grateful. Glasnost had given people the truth; the truth might be hard to take but it was the only basis for creating a viable human rights society.

7. Another question was the counter-insurgency complex. In colonial times, the metropolitan States, such as France and the United Kingdom, had developed counter-insurgency strategies to cope with the liberation struggle, which during the cold war had been refined by the whole of the West, including the United States of America, to contain communism. Some aspects of that strategy had been harmful to human rights and had contributed to a special kind of education for the armed forces in many parts of Latin America and in the third world - a concept of national security which was not, as normally assumed, outward-oriented, namely to defend the country against aggression from outside, but inward-oriented, trying, by repressive measures and in flagrant violation of human rights, to control domestic opponents who often did no more than try by democratic means to create a just society. The attention of some of those security forces had been directed against trade unions and peaceful movements for social reform, in an effort to project them as agents of communism, in the same way as apartheid defined its opponents as communist agents. Some of the problems the Sub-Commission had encountered in connection with countries such as El Salvador, Guatemala, Chile and the Philippines were the product of a special kind of education which was intolerant of human rights and democracy and favoured rule by coercion. Some of those countries now had democratic Governments which were trying to deal with various political groups in a peaceful and constructive way. Unfortunately, however, the armed forces, as well as elements on the other side, including elements in guerrilla movements, were trying to prevent and destroy the restoration and maintenance of democracy. That was another illustration of the fact that the Sub-Commission could not simply look at what a Government was doing. The Government might be doing its best but facing a situation that was very difficult to handle. With the changed international climate, it might be possible to examine the whole question of the education of the armed forces, to inculcate the values of democracy, tolerance and peaceful struggle for social justice without assuming them to be communist-inspired.

8. Another subject requiring consideration was the protection of national sovereignty in multinational or ethnic States. He had detected a growing willingness on the part of States to facilitate greater devolution of power and local autonomy and to experiment with different ways of accommodating different groups with different values and cultures within their borders. The Soviet Union, for example, was conducting an interesting but difficult experiment which needed all possible support and patience. But problems were not always handled satisfactorily. In the case of China and the autonomous region of Tibet, allegations by non-governmental organizations were very different from statements by government observers. He hoped that the question of Tibet's autonomy, particularly its scope and content could be clarified, so as to facilitate the development of harmonious relations between China and the autonomous region.

9. An important point in connection with ethnic groups was the way in which some of them exploited concern over minorities. In the case of Sri Lanka, he himself had been responsible for the first resolution adopted by the Sub-Commission in 1983, in which the Government had been criticized. The present Government had done what it could to accommodate, accept and develop arrangements for the devolution of power, but the response of the Tamil Tigers had been entirely unacceptable, and it was surprising that many non-governmental organizations espoused their cause and were unwilling to criticize the movement for its acts of brutality.

10. It would be useful if the Sub-Commission could examine, theme by theme, the many issues requiring attention with a view to finding the appropriate response, but there was no time. He could mention, for example, the tribal conflict in Somalia where leaders of many tribal groups, who had tried peacefully to convince the Government that there should be a process of conciliation, had simply been arrested. That was one of many indications of a lack of willingness to accept peaceful reconciliation between groups and which had contributed to the continuous confrontation which blocked the realization of economic and social rights, kept countries in a state of poverty, and produced large numbers of refugees. Unfortunately, it was still not universally accepted that the best way to achieve development was in the framework of human rights. The best solution was to develop a multiple and multi-dimensional strategy to deal with the many differing kinds of situation. On the one hand, there were many situations in which the requirement was to encourage the process of conciliation. On the other hand, it was important to be aware of elements within countries, on both sides of the political spectrum, which prevented reconciliation from succeeding. If the Sub-Commission could find a way of dealing with both sides of the problem, it would be a much more useful body. He appealed to members of the Sub-Commission as well as to non-governmental organizations and others, to reflect on ways of encouraging the process of conciliation and of giving help where possible, as well as highlighting the elements that tried to prevent conciliation.

11. Lastly he wished to refer to two very urgent questions. The first was the murder of Kazem Rajavi, in Coppet, near Geneva. Many members of the Sub-Commission had known him, and as a human rights activist he had given the Sub-Commission very useful information. It was frightening that he had been murdered near Geneva and the evidence pointed to the capital of the country of which he was a citizen. It was vital for the Sub-Commission to react to the affair and he hoped that it would adopt a resolution.

12. The second matter was the situation developing in Kuwait and Iraq's denial to a large number of foreigners of the right to leave the country, in defiance of all humanitarian standards. If the Sub-Commission failed to make a forceful and determined response, its position as a defender of human rights would be dubious. He hoped that the Sub-Commission would make its position clear, possibly through the Chairman, that all foreigners should immediately be given the right to leave. It was intolerable that they should be used as hostages in a situation not of their making.

13. Mrs. BAUTISTA, said that she had received an invitation from an Iraqi human rights organization, followed up by the Iraqi representative in her own country. She had not accepted the invitation, primarily because of official duties, but also because she had not been clear as to whether the visit would

be regarded as an official or a private one. In her opinion, the Sub-Commission should discuss such invitations and establish guidelines for visits so that they could be used in its best interests and so that any findings could be officially taken into consideration by the Sub-Commission and other United Nations organs. She had been glad to learn that other members of the Sub-Commission had had the same reactions as herself.

14. Until recently, there had been hopes that changes in relationships between the super-Powers and the peaceful transformation of Governments brought about by people power, through peaceful means and willingness to discuss problems and find peaceful solutions, would at last lead to world peace, and that the basic rights of impoverished, ill-nourished and marginalized populations, especially children, would be satisfied. There had been hope that with an end to violence, nations would live in peace and the resources spent on arms and weapons of death and destruction could be channelled to the promotion of human, civil, political, social and cultural rights.

15. Unfortunately, some nations found peaceful solutions difficult. The right to travel, to return to one's homeland, to earn a living in peace, to life and to freedom from hunger, fear and terror, were under serious threat. The inviolability and sanctity of the person from physical assault had been flagrantly ignored, and established conventions and principles of international humanitarian law on the treatment of civilians were not respected in situations of conflict. In face of the threat of massive violations of human rights, everyone must join in urging and appealing for restraint and for understanding and tolerance, respect for and observance of human rights and international humanitarian principles. The United Nations and its Member States must work together to divert funds, resources and energy to the attainment of peace and alleviation of the plight of all those suffering gross denial of their basic human rights and the Sub-Commission must devote every effort to the fulfilment of its mandate.

16. Mrs. PALLEY associated herself with concern expressed by Mrs. Daes and Mr. Eide at the political assassination of Mr. Kazem Rajavi and the need to protect all human rights activists. She also associated herself with the remarks by Mr. Despouy and Mr. Eide. In her view, Mr. Chernichenko had made some constructive observations at the preceding meeting concerning the annual report, which could be significant for the Sub-Commission's future work, if carried out in conjunction with the creation of a general Special Rapporteur's office.

17. The criteria for drawing the Sub-Commission's attention to situations meant that there were significant violations of human rights on which no action could be recommended. Lest she should be accused of being Eurocentric, she emphasized that violation of human rights was a universal human tendency and her own country was now having a judicial inquiry into the state of its prisons and was currently subject to a visit by the European Committee on Torture.

18. The present discussion had brought home the grim legacy of imperialism throughout the world and the problems left by artificial borders - although to seek now to alter State boundaries would be tantamount to triggering an earthquake and would undermine the fragile existing stability. That, together

with economic underdevelopment, South to North transfer of resources, debt burdens, inadequate technology transfer and ideological and weapons export from North to South, produced a devil's brew.

19. However bad matters might be, attempts, even with good will and the best of intentions, to settle matters internally by force, without acknowledging the rights of individuals and their group interests, made matters far worse, as, for example, in the Sudan, certain Central American States, Myanmar, Iraq and Turkey in relation to their Kurdish populations, and the Islamic Republic of Iran in relation to those whose political, secular and religious views differed from those enjoying governmental power. A point had been reached when even conciliatory intentions adopted at a late stage in a conflict could not repair inter-community bridges, as now tragically seemed to be the case in Sri Lanka, and might, as in the case of the Islamic Republic of Iran, lead to persecution of opponents becoming a way of life.

20. External intervention only intensified conflicts, even if it claimed to be humanitarian or was requested by a Government, or was intended to restore order or to stop alleged cross-border aggression. When foreign weapons and advisers were imported, whether to further the self-interest of the arms trade or to have cost-cutting exercises for the military armaments complexes of different technologically advanced countries, or whether for ideological reasons, the long-term results were inevitably disastrous, with the destruction of human rights and democracy, as in the case of Afghanistan, Cambodia and South Korea - and possibly in that of India's intervention in Sri Lanka. Even if intervention was short, sharp and in a small country, there were still bad consequences: breaches of international law and a bad example set to other States, as in the case of Grenada and Panama.

21. When the cause of the intervention was territorial aggrandizement, the problems did not disappear, even with a temporary victory. Conquerors knew that the victims would rise up against them for generations - a point made by Mr. Khalifa in 1989 in respect of Israel, the occupied territories and the intifada. The observer for Israel that morning had made some logical points about the situation of a country effectively at war with its neighbours and their allies, other than Egypt, but there was no doubt that excessive force had been used by military and police in suppressing disorders within Israel and the occupied territories. Moreover, there was long-standing discrimination against Arab Israeli citizens. It was for such reasons that the settlement of Russian immigrants, even inside Israel's boundary, especially in Galilee, was of grave concern. There were rightful Arab owners of those lands, who were either internal refugees or had fled to Arab countries, and it was wrong to bring in Russian settlers or to allow those lands to be settled by other Jewish Israelis through the intermediary of the Jewish National Fund, to the detriment of the true owners of the land. That was in fact demographic manipulation, even within the boundaries of an existing State, and it must be condemned.

22. Invasions and occupations had taken place after the establishment of the United Nations, for example China's occupation of Tibet in 1949, India's seizure of Kashmir, Indonesia's seizure of neighbouring colonial territories such as East Timor, Ethiopia's invasion of Eritrea and Tigre, Lebanon's direct occupation by Syria and indirect occupation by Israel and the intervention of other trouble-stirring external Powers, and the occupation of Cyprus by Turkey. And now Iraq had occupied Kuwait. Since there appeared to be a

prospect of peace, she wondered whether all the displaced Kurds and Shia Arabs would now be allowed to go home, since it had been claimed that they had been moved for their own security.

23. With regard to the question of the invitation to visit Iraq she had received numerous invitations, some from the Iraqi Embassy in London, and had always avoided going, because when the issue had arisen in 1989, she had objected to informal invitations to individuals and said that the only safe and proper way was a visit on an official basis through the Sub-Commission. She was glad to see that Mr. Sadi had now taken up that line of argument. Mr. Ilkahanaf had been incorrect in saying that a decision had been taken in 1989: the whole question had been left open, because some members had welcomed the invitation as an indication of the Government's interest. The Sub-Commission and its members could be involved in such a matter only on a proper basis, with a long visit, the ability to ask the authorities to see prisons and other places, paying unexpected visits, and after consultation with refugees and other people.

24. Oil questions had always stirred up international interest. It was clear that, despite the establishment of the United Nations and human rights standards, what counted ultimately was self-interest. Other matters merely provided pretexts or rationalizations and could be ignored, if convenient. Realpolitik was what most mattered in crunch situations.

25. The situation in Cyprus provided a very good example of what happened in international relations. The United Kingdom, seeking a military base after its withdrawal from India, had encouraged the intervention of Turkey which since the Korean war had become a reliable ally of the West, whereas Greece was considered ideologically split and unreliable. The people of Cyprus had been denied self-determination and provided with an unworkable Constitution. Inter-communal violence in the period 1963 to 1967 had resulted in tragic suffering and resulting vendetta. During that period some 800 Turkish Cypriots and 450 Greek Cypriots had disappeared.

26. Talks had begun in 1967 at the instance of the international community and had continued for six and a half years. By then the original goal of Enosis, or union with Greece, was no longer desired by the Greek Cypriot leaders, but the Greek military dictatorship of the time, encouraged by the United States, thought that it could attain Enosis. Turkey was to be given a base as a consolation prize.

27. Five times between 1963 and 1967 Turkey had threatened intervention. It had finally gone into Cyprus on the pretext of protecting the Turkish Cypriots - not one of whom had been attacked at that stage - and seized 37 per cent of the island, driving out 200,000 people, just as Israel had driven out the Palestinians. Turkey had never revealed the fate of 1,600 missing persons who had been seen in their hands. Shameful crimes against humanity had been committed on both sides. Today Turkey continued to violate the rights of Greek Cypriots, who were not allowed to return to their homes. Turkey claimed half of the Cypriot territorial sea and exclusive economic zone, for there might be oil under its waters. Paradoxically, but for the presence of United Kingdom forces Turkey would not have been restrained from taking over the rest of the island. Its primary concern had never been the welfare of the Turkish Cypriots, but its own security.

28. What had the world done in the face of that situation? There had been three recourses to the European Commission on Human Rights and the Commission of Ministers of the Council of Europe, which had found procedural excuses not to condemn Turkey. Nothing was going to be solved in that forum.

29. The United States had given Turkey military help for two years and then withdrawn it.

30. The lessons to be drawn were, first, that double standards and opportunism gave cynical justification to other military Powers and, second that there could be no hope of resolution of a situation by regional bodies alone, which tended to keep difficulties "in the family". In that connection, she regretted that the representative of the PLO should have argued in favour of an internal Arab solution to the problem of Kuwait. Third the principle of non-intervention in domestic jurisdiction was not applicable where human rights were concerned. The argument that international expressions of concern were counter-productive was nonsense: there would hardly be so many observers from Governments at the Sub-Commission's meetings if it were true. States as well as individuals had a conscience and needed to be reminded of moral standards.

31. Turning to the present situation in Iraq, she said that she did not believe that Mr. Saddam Hussein would wish to be remembered for treating foreign civilians as hostages. Even if Iraq were at war, such persons would be entitled to the protection of international law, contact with international humanitarian organizations, internal diplomatic protection and humane treatment. However, Iraq was not at war and every person should be allowed to leave the country, if he so desired. She hoped that the observer for Iraq, who had repeatedly assured the Sub-Commission that his country observed human rights, would be able to tell the Sub-Commission that Iraq would be allowing all those wishing to leave to do so speedily and in safety.

32. Mr. TREAT said that Mr. Chernichenko had made a good point in saying that he hoped that one day the Sub-Commission would be more thematic in its work. He was alarmed that the Sub-Commission had not yet established more order and discipline in its proceedings. He congratulated Mr. van Boven on his work for the Working Group on item 6. The Sub-Commission had a major responsibility to face up to in that connection before next year.

33. He agreed with Mr. Eide and Mrs. Palley on the need to consider the situation in Iraq as an urgent one. Because of Security Council resolutions 660 (1990), 661 (1990) and 664 (1990), the Sub-Commission must take into consideration at its present session some of the issues raised by the Middle East conflict. What was happening in the Middle East was abominable: the use of innocent defenceless civilians as a human shield to protect military installations was a barbaric practice, contrary to international law and the moral principles of all civilized nations.

34. Article 12 of the International Covenant on Civil and Political Rights provided that: "Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence". The same article provided that "Everyone shall be free to leave any country, including his own". The Geneva Convention relative to the Protection of Civilian Persons in Time of War 1949, stated that all protected persons desiring to leave a country might do so.

35. Iraq had chosen to retaliate against the United Nations Security Council by threatening to deny food to the most vulnerable members of the foreign community - children, women, the old and the sick. Its unprovoked invasion of another Arab State and the attempted creation of a bogus Government in Kuwait must be denounced. There was ample evidence that the Government of Iraq had been brutal to its own people, callously disregarding human rights. The Government of Iraq had tortured and murdered its opponents, and freedom of speech, the press, assembly and association did not exist in that country.

36. Contempt for the lives and rights of the Iraqi people had now been exported to the people of Kuwait. The observer for Kuwait had reported the rape and plunder of Kuwaiti people whose sufferings were all the greater because they were imposed by a treacherous brother nation which it had always supported in a time of crisis. The Iraqi aggression against Kuwait, a sovereign nation, must be resisted by the international community.

37. The world community had united in resisting that aggression as never before. The fact that the Security Council had been unanimous in its opposition to the Iraqi aggression augured well for the future. Some small shred of good might therefore come out of the situation.

38. Mrs. Palley's attitude concerning the use of oil as the motivation for the Middle East crisis was somewhat cynical. Although the Governments of Saudi Arabia and Kuwait were not noted for their interest in democracy or human rights, what was at issue was the question of sovereignty. He did not believe that the historians of the future would lay emphasis on oil but on the fact that the world was experiencing a transition from absolute sovereignty to international discipline. He believed that the standing of the United Nations would be greatly enhanced by the present episode.

39. Mr. van BOVEN said that he believed that there had been some truth in Mrs. Palley's argument concerning oil. The international community had not been greatly alarmed by the killing of hundreds of thousands of Iraqi and Iranian soldiers, but had expressed concern only when oil supplies were threatened. Economic issues did have an impact on human rights.

40. Much attention had been given by the Sub-Commission over the years to human rights violations in South Africa and southern Africa, and he was happy to see some encouraging developments in that area, including the independence of Namibia. Since 1967 the Sub-Commission had also spent much time discussing the human rights situation in the territories occupied by Israel; unfortunately there was no improvement. On the other hand, he welcomed Chile's return to democracy, which proved that persistent pressure could be successful in ending gross violations of human rights.

41. More than 60 country situations had been examined in the framework of the 1503 procedure by the Commission and the Sub-Commission. The Commission itself had created working groups or appointed rapporteurs to deal with non-derogable human rights. The Sub-Commission could not ignore those established mechanisms, nor could it ignore procedures based on treaties and international covenants, all of which were based on specific undertakings by States parties or on their membership of the United Nations. Governments undertook legal obligations as parties to international instruments. The unique function of the United Nations in relation to member States should not be forgotten: membership entailed responsibility and accountability.

42. Certain rights were non-derogable. However the Sub-Commission must be aware that Governments faced extremely difficult situations in civil conflicts involving several parties, as in Lebanon, El Salvador, Ethiopia, Afghanistan, Liberia and Cambodia.

43. Reliance must be placed on the basic standards of humanitarian law, particularly the common article 3 of the 1949 Geneva Convention. Those basic standards were not addressed to Governments alone but to all parties to conflicts, both national and international. The 1949 Geneva Conventions were applicable to the territories occupied by Israel, and regrettable violations of those Conventions had occurred.

44. The conduct and practices of the Iraqi Government were also regrettable. There had been world-wide condemnation of the Iraqi occupation of Kuwait. Iraq's violation of basic human rights and humanitarian law was of concern to the Sub-Commission. In particular, the holding of foreign nationals was contrary to the standards of international law.

45. It was one thing to condemn, however, and another to take preventive measures. The Secretary-General of the United Nations had been trying to develop theories and practices of preventive and anticipatory diplomacy. There was a parallel need for preventive diplomacy with respect to persistent violations of human rights, although there was more reluctance to apply it because the principles of non-intervention and sovereignty were at stake. However, preventive mechanisms should be made available expeditiously to prevent a conflict from deteriorating and leading to more human suffering and violations of human rights. Preventive policies should therefore become a constant matter of concern to human rights bodies.

46. The violation of economic, social and cultural rights was sometimes overlooked and greater stress laid on civil and political rights, but all human rights were indivisible. The forced removal, eviction or transfer of populations, often affecting the most disadvantaged sectors of society, had been carried out in many countries. The rights involved were the right to housing, freedom of movement, the right to privacy, freedom from discrimination, the right to development and in some cases to self-determination. A report from Habitat, a non-governmental alliance on human settlements gave illustrations of such evictions on political grounds in Myanmar, Iraq, Panama, the Philippines and Tibet. Other examples had been given to the Sub-Commission. In his view, more attention should be given to the policies of Governments and development agencies such as the World Bank from the standpoint of human rights criteria. That issue had been touched upon by Mr. Türk in his preliminary report on the realization of economic, social and cultural rights (E/CN.4/Sub.2/1989/19) the previous year, and recently the Committee on Economic, Social and Cultural Rights had recommended that international agencies should scrupulously avoid involvement in projects which involved the large-scale eviction or displacement of persons.

47. In Iraq and Kuwait foreigners were being held virtually as hostages. The human rights situation in Iraq was a matter of great concern and should be subjected to international scrutiny. At the previous meeting Mr. Ilkahanaf had mentioned that in 1989 he (Mr. van Boven) had expressed the view that the invitation by an Iraqi NGO should be accepted. He had consulted the relevant summary record, which stated that he had said that the invitation to the Sub-Commission had been sent, not by the Iraqi Government but by the Iraqi

Society of Human Rights, and that the Sub-Commission had no precise information on the terms and conditions of the visit. He had gone on to say that the Sub-Commission's duty was to draw the attention of the Commission to the situation in Iraq and that he would vote against Mr. Sadi's proposal. Mr. Ilkahanaf had also referred to what he had described as a haphazard decision taken in 1989, but in fact no decision had been taken on the matter.

48. The fate of the Kurds was a source of concern to him, too. They lived in a number of different countries and had often been subjected to gross violations of human rights and to enforced removals.

49. Several members had drawn attention to the question of Cambodia. According to many legal scholars, the Khmer Rouge should be considered guilty of crimes against humanity for their activities in the 1970s. They had never been condemned by the United Nations because it had been considered not politically opportune to do so. The Khmer Rouge were continuing their criminal activities, affecting the fundamental rights of many Cambodians. Over the years, except for one report on which no action had been taken, the United Nations had failed to take account of human rights violatons in Cambodia, and its failure to do so was casting a very dark shadow over its reputation. The Sub-Commission should take the matter up again.

50. He strongly associated himself with the comments made by Mrs. Daes, Mr. Eide and others concerning the assassination of Mr. Rajavi, who for years had been discreetly providing pertinent information to members of the Sub-Commission. There had been similar cases in the past. For example, relatives of Latin Americans who had disappeared had come to him to present information and had subsequently disappeared themselves. Such evil acts affected everyone in the conference room. It was most likely that Mr. Rajavi's assassination had been an act of State terrorism, and not an isolated one. According to a press report, the investigating magistrate had found that the execution had been minutely planned and that the 13 persons implicated had held Iranian service passports and had mostly entered Switzerland together. The Sub-Commission could not fail to condemn such acts of State terrorism, for which the authorities of the country concerned bore full responsibility.

51. Mr. Treat took the Chair.

52. Mr. MAXIM said that for many years the world had had only a vague idea of the human rights situation in Romania. Only when the Sub-Commission and the Commission on Human Rights had taken up the situation seriously had the tragic truth emerged. The debates in the Commission on Human Rights, the resolution adopted in 1982 and the appointment of a Special Rapporteur had provided a real shock for the former dictatorial régime, which had tried to hush them up. The dictator's reaction had been harsh and arrogant because, despite the draconian measures taken to cut Romania off from the outside world, he had no longer had the power to hide the truth. The Commission's resolution had created much hope in Romania. The speed with which the dictatorship had been overthrown had shown that the Romanian people had no longer been willing to live under it. He wished to pay tribute to all those who had helped Romania during the long and difficult period.

53. The situation in Romania highlighted the very strong link between civil and political rights on the one hand and economic, cultural and social rights

on the other, as well as the difficulty of implementing human rights in a poor country facing severe economic problems where the Government, despite its goodwill, could not meet the requirements of the population.

54. Mr. SADI recalled that at the previous meeting the representative of Israel had asked members of the Sub-Commission who spoke so critically against Israeli practices in the occupied territories why they did not refer to the murder of a Canadian tourist and two Israeli citizens. On that point, he agreed with the representative of Israel. He personally was opposed in the strongest terms to the killing of innocent Israelis or tourists.

55. Mr. JOINET said that the situation in the Israeli-occupied territories was still very serious and should be given priority attention. In connection with the situation in Iraq, he had listened with great interest to the statement made by Mr. Guissé, and it seemed that chemical weapons had been used in the village which the latter had visited. However, it was not clear whether the persons present had been Kurdish peasants or Iraqi soldiers. With regard to the persons detained in Kuwait, it should be borne in mind that Kuwait had ratified Protocol I to the Geneva Convention, which stipulated that the presence or movements of civilians must not be used to make areas safe from military attack or as a cover for military operations. Unfortunately, France had still refused to sign it. He was currently holding discussions with the Iraqi Ambassador in Paris and had not given up the idea of visiting Iraq.

56. In El Salvador, negotiations were, fortunately, taking place, and there were promising developments in Guatemala. In both countries, however, human rights were still being violated. One of the problems involved in the negotiations would be whether past and possible future violations should be discussed together or separately. In any case, he hoped that progress would be made and that it would be shown that poverty could be eliminated by means other than armed struggle. The situation in Colombia was dealt with in his working paper on the independence and impartiality of the judiciary, jurors and assors and the independence of lawyers (E/CN.4/Sub.2/1990/35) In any case, the Government was to be congratulated on its determination to combat drug trafficking. Solidarity with Colombia in countries of the North could be made effective through police co-operation in combating consumption. The court decision virtually acquitting the mayor of a large city in the United States of America had been received with enormous disappointment by the Colombian judiciary.

57. At the Sub-Commission's previous session, the observer for China had described a speaker opposed to the repression in his country as a "common criminal". He himself had asked the observer for China whether, in that case, the Chinese Government would apply to INTERPOL for the issue of an international warrant for the speaker's arrest. That had not been done, because INTERPOL did not issue such warrants in the case of political offences.

58. The Kurdish question was so complex because help supplied in one place created a chain reaction elsewhere and it was difficult to see how the Sub-Commission could act. The Commission on Human Rights, taking all the necessary diplomatic precautions, should find a mechanism for protecting the human rights of Kurds in whatever country they lived.

59. With regard to the dramatic situation in Cambodia, he invited members to read the relevant section of his report on the practice of administrative detention (E/CN.4/Sub.2/1990/29).

60. With Tibet in mind, he would be willing to support Mr. van Boven in any examination of the relationship between violations of human rights and population and settlement policies. Cases involving that relationship were more frequent than was commonly supposed. In New Caledonia, for example, France had deliberately carried out a settlement policy designed to change the electoral balance. The situation in East Timor should not be forgotten.

61. He agreed with the comments made by Mrs. Warzazi concerning non-governmental organizations, some of which probably went too far. As far as the "multinational" was concerned, he did not know what had happened in Morocco. There had certainly been some tactlessness, but it should be borne in mind that in many cases what had been described as "lies" fabricated by the organization concerned later turned out to be true. Non-governmental organizations did sometimes pose problems; he himself had been a victim of one of them, but a satisfactory solution had been found.

62. He was very pleased that Mr. van Boven had mentioned the case of Mr. Rajavi, with whom he had worked. He hoped that the full truth about his murder would come out one day.

63. Mr. SACHAR said that no country could be absolutely proud of its human rights record. The collapse of authoritarian régimes in Europe had not eliminated all violations. Even new countries were having problems with human rights.

64. Fiji was a case in point. As a result of the large-scale immigration of Indian workers when Fiji had been under British administration, persons of Indian origin constituted 48 per cent of the population. Under the new Constitution they were to be allotted only 22 out of the 70 seats in Parliament. That was contrary to article 21 (3) of the Universal Declaration of Human Rights and created a situation which might well get out of control. The Sub-Commission should take note of the situation and request information on it.

65. Respect for human rights was very much dependent on economic factors, especially in Africa. Admittedly, the economic conditions of a country could be no justification for human rights violations, but poverty, ignorance and illiteracy provided fertile ground for them.

66. He was disturbed by the attempts being made to oblige others, particularly Japan, to help meet the cost of the United States military build-up in the Gulf. An issue of international law was being turned into a money matter. Because the cost was so high, issues concerning the denial of human rights in the Middle East and the vast disparities of wealth there were now being raised. That was a good sign, since it increased awareness that the campaign for human rights would never succeed unless both economic and political rights were joined together and people were given a decent standard of living. The rich areas must help the poor.

67. Muslims were being killed in Sri Lanka. It was not known who was doing the killing, and it might be advisable for a member of the Sub-Commission to

investigate the situation on the spot. In Myanmar, the party of the generals who governed the country had lost the elections but was refusing to hand over power to the winners. That situation should be looked into, since the only solution left for a party that had been deprived of the fruits of its electoral victory might be to turn to violence.

68. Mr. TALEGHANI (International Falcon Movement) drew the Sub-Commission's attention to the serious and systematic violations of human rights in the Islamic Republic of Iran. The situation had worsened since the Special Representative's visit in January 1990 and the publication of his report (E/CN.4/1990/24). Whatever Mr. Galindo Pohl might wish to have the Commission believe, the facts were there to prove the opposite. Government newspapers had reported savage punishments and executions carried out in public. On 5 May 1990, the Assistant Attorney-General had indicated that 1,200 persons had been executed in recent months and that there were plans to execute large numbers of others in the next few months. In May 1990, an official campaign had been launched to punish women who were not properly veiled to 74 lashes with a whip. The situation was far worse in the prisons, where men and women were tortured and burnt alive.

69. State terrorism was another aspect of human rights violations. The murder near Geneva of Mr. Rajavi, a renowned defender of human rights, was one example. The Swiss magistrate investigating the death had found evidence to indicate that one or more official Iranian services were directly involved in the murder. The media had also referred to a telegram which the victim's brother had sent to the President of the Swiss Confederation, in which he denounced two Iranian diplomats as having been responsible for supervising the execution. Police investigations had revealed that the two diplomats had in fact been in Geneva during the period in question and that they had left for Tehran on the day of the murder on a direct Iran Air flight.

70. While Mr. Rajavi's murder was being prepared, two Swiss citizens had been taken hostage by agents of the régime in Lebanon to serve as bargaining chips. When a régime responded to political and legal confrontation by murder near the United Nations in Geneva, it could be imagined what it did to its prisoners behind thick walls.

71. Before his murder Mr. Rajavi had begun a detailed and documented work entitled Human rights betrayed in reply to Mr. Galindo Pohl's report (E/CN.4/1990/24). The book sought to show what was really happening in Iran and should have the status of a United Nations document. The contradictions pointed out by Mr. Rajavi were so numerous that he would only cite one of them. Whereas the Special Representative affirmed that there had been no public execution during the five months prior to his visit, information provided by the Iranian resistance would have revealed that, solely on the basis of statements made by the authorities in its newspapers, collective public executions had taken place on 8, 12, 17, 24, 30 and 31 October, on 11, 18 and 27 November, and on 6 and 9 December 1989. Mr. Galindo Pohl admitted that his conclusion had been based on what his hosts had told him. He had also verified that four persons mentioned in the list of executed persons had still been alive. Unfortunately, he had made no effort to inquire about the 16,000 other names. If he had examined the list of victims, he would have found that two of the four names supplied by the régime had not been included in the list. Moreover, the other two names were those of two persons whose execution had been officially announced by the régime itself.

72. Could it be clearer that the authorities were delighted with the publication of the report, in which hangmen and victims exchanged places? The day after Mr. Rajavi's murder, Mullah Qaraati had stated over Radio Tehran that the Islamic State was free to suppress the Mujahedeens, who must be sought out and killed.

73. As Mr. Rajavi had said, the history of human rights in his country was written with the blood of those who fought for freedom. It was therefore the responsibility of those who believed in inalienable and inviolable human rights to continue the campaign for them and to prove to the Iranian people and to the whole world that human rights would not be subjected to the political caprices of the day. The Iranian people considered Mr. Galindo Pohl's report to be a betrayal. In order to safeguard the inviolability of human rights and to regain the confidence of the Iranian people, a new mission of inquiry, accompanied by representatives of the resistance movement, must again visit the régime's prisons and torture centres. The Sub-Commission was therefore urged to adopt a firm and unambiguous resolution condemning the continued violations of human rights in the Islamic Republic of Iran.

74. Mr. MILOSEVIC (World Association for World Federation) said that, since 1945, the communist régime in Yugoslavia had continued the Islamic Albanian colonization of the Serbian territory of Kosovo which had been started during the Turkish occupation. Every form of discrimination, abuse of human rights and terror had been employed in the process with the result that 450,000 Serbs had abandoned their homes in Kosovo and had in effect become a minority in part of their own Republic. At the same time the Albanian population had increased disproportionately due not only to its higher birth rate but also to massive and uncontrolled immigration of an estimated 400,000 political refugees from the People's Republic of Albania.

75. The law in force between 1945 and 1988 had prohibited the Serbian population from returning to their historic homeland. Moreover, the colonization of Kosovo was continuing with the active support of Islamic fundamentalism which was conducting a Jihad with a view to the total elimination of the Christian population of Kosovo. The colonization of Kosovo by the Albanian Muslims was in fact the first stage of a strategy to convert the whole of the Balkans to Islam.

76. The Serbian organizations recommended the following measures with a view to settling the Kosovo problem. Laws should be adopted for the decolonization of the Serbian territories of Kosovo and to facilitate the return and reintegration of the Serbian population in Kosovo. The international community should be urged to condemn as a racist act the policy of ethnic purge pursued by the Albanians. In that connection, his organization was confident that the Sub-Commission would be in a position to influence the situation in Yugoslavia.

77. Mr. RETUREAU (World Federation of Trade Unions) said that new crises were arising at a time when a solution was not yet in sight for existing problems such as the civil wars in Liberia, Sudan and Ethiopia, the growing number of refugees in Africa and inter-ethnic and political riots in South Africa. In the Middle East the invasion and annexation of Kuwait by Iraq, in violation of the Charter of the United Nations, had produced a new crisis in an area already riddled with destabilizing problems such as the right to

self-determination of the Palestinian people, the intifada in the occupied territories, Israel's annexation of East Jerusalem and the Golan Heights and the destruction of Lebanon.

78. The monarchies of the Gulf States did not enjoy a brilliant record in terms of democracy and human rights; the trade union movement had not been able to celebrate the first of May in Kuwait; trade union leaders in Bahrain had been languishing in prison for years; while in Saudi Arabia and Oman trade union rights simply did not exist.

79. His organization respected international law and the fundamental rights of the human person and of peoples and accordingly firmly rejected the de facto seizure of foreigners as hostages by the Iraqi authorities in Iraq and Kuwait. That action had been justly denounced by the Security Council.

80. When, at its previous session, the Commission on Human Rights had adopted resolution 1990/16 on the question of trade union rights, it clearly established that such rights formed an integral part of human rights and did not fall within the exclusive competence of a single specialized agency.

81. The tragic situation of workers and their families in the occupied Arab territories had continued to deteriorate. The military authorities and settlers had even murdered workers on their way to work, as in the case of eight Palestinian workers killed on 20 May 1990.

82. Freedom of opinion and trade union rights were not always respected in Turkey. DISK, the trade union federation continued to be prohibited and its assets had been confiscated. The Government refused to change the situation and had employed delaying tactics and reference to constitutional and legislative provisions which were contrary to international law.

83. The experts of the Sub-Commission might wish to consider means for bringing appropriate legal pressure to bear on States which had a record of serious and diversified violations of human rights and which refused to correct such violations.

84. The newly formed independent National Council of Labour Trade Unions had been subjected to non-stop repression in South Korea. Its president, 15 other leaders and a great many workers had been arrested for organizing trade union demonstrations and 23 other leaders had been subjected to police interrogation in April. After the strike in May, more than 250 trade union leaders had been arrested and accused of criminal acts; according to current legislation, some of them could be condemned to death. His organization urged that the charges be dropped and that the National Council of Labour Trade Unions should be given legal recognition.

85. In Colombia, paramilitary gangs continued to decimate the trade union movement and democratic political organizations, including in particular the Patriotic Union. National and regional trade union leaders had been assassinated. Extra-judicial executions continued and even increased in Guatemala. In Indonesia, the Government had kept leaders of the SOBSI trade union federation in gaol for more than 25 years but so far had refrained from executing them because of the pressure of international public opinion. His organization urged that those trade union leaders should be freed and granted immediate amnesty. In Peru many trade union leaders had been victims of

paramilitary and terrorist groups. The Government must make every effort to ascertain the whereabouts of Javier Alarcon and to end its repression of the trade union movement. In the Philippines trade union leaders continued to be assassinated either by hired killers or by the military. In Cambodia the Khmer Rouge must be prevented from wreaking further harm on the country so that it could finally achieve peace and economic recovery in full respect for its independence and sovereignty.

86. Mr. Türk resumed the Chair.

87. Mr. RAIANI (International Organization for the Elimination of All Forms of Racial Discrimination) said that, in his opinion, the Horn of Africa was the region of Africa that suffered most from human rights violations. In 1952, Ethiopia had annexed Eritrea against the will of its people with no reaction whatsoever from the United Nations. A war for the liberation of Eritrea had then started and was still continuing. The Ethiopian régime had resorted to air-raids against mainly civilian targets, using phosphorus and napalm bombs and currently there were allegations that cluster bombs supplied by Israel were being used. Israel was also reported to be furnishing sophisticated technology such as surveillance cameras and nose-cones, spare parts, light arms and ammunition while Israeli security personnel were training the Palace Guard.

88. His organization urged the United Nations, through the Sub-Commission, to give back Eritrea to its people. It also supported the appeal of Mr. Berekat Habre Selassie to have the issue of Eritrea placed on the agendas of the next sessions of the Commission and the Sub-Commission.

89. Human rights were non-existent in Somalia and thousands of political prisoners were lingering in the prisons of Mogadishu. His organization therefore condemned the military régime in Somalia and hoped that the country would soon rid itself of the régime of Siad Barre and establish democracy. Democracy was the only salvation for the Arab people as otherwise their basic human rights would continue to be violated and their riches squandered by the oil Emirs and exploited by foreigners who believed that they had an inalienable right to Arab oil.

90. In Kosovo, Yugoslavia, the rights of the Albanian population were being violated and the Serbian police was in full control. A state of emergency had been proclaimed three times in recent years by Serbia which had no right to impose such measures on a federal unit such as Kosovo. About 100 people had been killed in pro-democratic demonstrations in Kosovo and over 600 wounded. The Serbian authorities had dissolved the Kosovo Parliament because it had proclaimed equal status for Kosovo with other federal units in the Yugoslav Federation. The Serbian authorities had also closed the television and radio stations which broadcast in Albanian as well as the Albanian-language newspaper, in clear violation of article 19 of the Charter of the United Nations.

91. His organization appealed to the Sub-Commission to appoint a rapporteur to investigate the situation before it erupted into a war.

92. His organization also welcomed the peace settlement between the Islamic Republic of Iran and Iraq.

93. In conclusion, he reminded the Sub-Commission that the representatives of non-governmental organizations sometimes paid for their activities with their lives; in that connection his organization condemned the assassination of Kazem Rajavi, the Iranian human rights militant who had been killed in April 1990 near Geneva.

94. Ms. SAYERS (International Working Group on Indigenous Affairs) said that on 11 July 1990 the Mohawks of Kanesatake had taken a firm stand to protect their traditional lands from being developed into a golf course. Since that time the communities of Kanesatake and Kahnawake had been deprived of food as a means of coercing them to abandon their stand and submit to the Government. Such food as the Mohawks had been able to obtain had had to be rationed and malnutrition had become a matter of great concern. Efforts to smuggle food into the territory by boat or by back-pack through the woods had been harassed by police.

95. As support for the Mohawks had spread across the country, food had been sent from many sectors; it had not however been permitted entry into the communities and was rotting at the barricades while people inside went hungry. On one occasion food had been flown in to Kahnawake and subsequently the air space above both communities had been closed.

96. The Canadian Government claimed that food was being allowed into the two communities but the question might then be asked why it had been necessary for the Mohawks to establish as their first precondition to begin negotiations that there should be unimpeded access to food, clothing, medical supplies, health care and other basic necessities of life for both communities.

97. Medicines and other related necessities had to be smuggled into the two communities. What was most disturbing was that ambulances were being delayed at police barricades without regard for the seriousness of the condition of the patient. At the barricades, Mohawks were harassed, detained and searched. Even the legally constituted police officers instituted under the authority of the Indian Act were being held at gun-point and told by the provincial police to leave their sidearms at home.

98. Due to the incidents at the barricades, Mohawks had been forced to remain at home since, once individuals left the community, they could not return. Many Mohawks had lost their jobs owing to their inability to attend work; businesses had been lost and the overall economic picture for Kanesatake and Kahnawake was grim. Mail was only delivered sporadically and, during a period of 35 days, all deliveries of gasoline, diesel fuel and propane had been stopped. The rights of the Mohawks to freedom of movement and to work, guaranteed by articles 13 and 23 of the Universal Declaration of Human Rights, had accordingly been violated.

99. Her organization had signed affidavits regarding many incidents and those were available for consultation by the Sub-Commission. It also had further evidence that those same human rights violations were continuing despite the agreement signed on 12 August 1990 between the Federal Government and the Mohawks.

100. Her organization was very pleased that the International Federation of Human Rights had consented to be observers in the dispute. The number of human rights violations had been reduced since the arrival of those observers although incidents were still occurring where the observers were not present.

101. Against that background the International Working Group on Indigenous Affairs strongly urged the Sub-Commission to appoint a special rapporteur to investigate the human rights situation at Kahnawake and Kanesatake, with a view to ensuring that the human rights and fundamental freedoms of the Mohawks were observed in the future.

102. Mr. KHOURI (Union of Arab Jurists) said that his organization represented associations of jurists in 17 Arab countries and stood for the defence of human rights; it was opposed to all forms of injustice and persecution and believed in the right of all people to live a dignified life in an atmosphere of peace. Economic crises, indebtedness and vast disparities of income were the basic causes of revolutions, wars and other disasters which deprived people of their human rights and even the basic right to life itself.

103. It had recently been reported that the total indebtedness of the Arab world amounted to $208 billion while the foreign assets of the six States members of the Gulf Co-operation Council, with a total population of only 10 million, stood at $670 billion. The Arab world as a whole was therefore a creditor in the international monetary system to the extent of $462 billion. In 1988 annual per capita income in the Gulf States had been over $14,000 but in Eygpt it was only $680 and in Yemen $420. Moreover, when some Arab countries had requested that their loans be rescheduled or new loans granted, the banks of the Emirs had refused to provide guarantees. The IMF had then called on the Arab Governments to put pressure on the labouring masses to make greater sacrifices, thereby depriving them of a decent life, even in cases where scheduled debt repayments exceeded the country's export earnings.

104. When oil had first been discovered, the Western colonialists had partitioned the Arab world into small States with puppet régimes which served foreign interests, leading to corruption which sapped the will of the people. The people had been deprived not only of their human rights but also of the spiritual and religious values of Islam which prescribed that all should share in the national patrimony.

105. That situation shed light on the current conflict in the Gulf, on the justice of Iraq's claims and on the solidarity of the Arab masses with Iraq even in the small States. The Palestinian people had been deprived of their right to self-determination; they had been displaced from their homeland and had been and continued to be the victims of the policy of genocide pursued by Israel. The influx of Jews from the Soviet Union to the occupied Palestinian and Arab territories was increasing and was threatening peace and security in the region. In spite of that, however, fleets and weapons of mass destruction had not been moved, as they currently had been, on the pretext of protecting international peace and security.

106. The Arab people as a whole questioned the moral justification of defending international law by force of arms by the United States of America which had used the nuclear bomb in Japan, chemical weapons in Viet Nam and had perpetrated aggressions in the Libyan Arab Jamahiriya, Tunisia, Grenada, Panama and Colombia.

107. The United States was responsible for the tensions in the Gulf and for the military confrontations, disasters and threats to peace and security that might result from that tension. He called for the withdrawal of the

United States and allied forces from the region and insisted that the responsibility for finding just solutions for Arab problems should be left in the hands of the Arabs themselves.

108. Mrs. WARZAZI, speaking on a point of order, said that she did not recognize the name of the non-governmental organization represented by the speaker. Non-governmental organizations did not, however, have the right to insult States. The speaker should be called to order.

109. The CHAIRMAN requested the speaker to refrain from the use of offensive language.

110. Mr. KHOURI (Union of Arab Jurists) said that the United States had arrogated to itself the right to interpret international law in such a way as to justify piracy against Iraq which had not attacked the United States. The United States of America was responsible for the current situation in the Gulf. He demanded that the United States should withdraw its forces.

111. The CHAIRMAN said that, in accordance with rule 43, paragraph 2, of the rules of procedure, the discussion must be confined to the item before the Sub-Commission. The speaker was not complying with that rule and was out of order.

The summary record of the second part of the meeting appears as document E/CN.4/Sub.2/1990/SR.20/Add.1

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SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE SECOND PART* OF THE 20th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 21 August 1990, at 7.35 p.m.

Chairman: Mr. TÜRK

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* The summary record of the first part of the meeting appears as document E/CN.4/Sub.2/1990/SR.20.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSON ON HUMAN RIGHTS RESOLUTION 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1990/15, 16 and 49; E/CN.4/Sub.2/1990/NGO/2, 6, 10, 19 and 20; E/CN.4/1990/3, 24-27, 45 and Add.1, 52 and 55; A/44/620)

1. Ms. DILLER (International Human Rights Law Group) recalled that General Assembly resolution 43/157 had established that the right of everyone to take part in the Government of his or her country was a crucial factor in the effective enjoyment by all of a wide range of political, economic, social and cultural rights. In the same resolution, the General Assembly had called upon the Commission on Human Rights to consider appropriate ways and means of enhancing the effectiveness of the principle of periodic and genuine elections and in resolution 1989/51 the Commission had provided a framework for future efforts to guarantee that right. In resolution 44/146 the General Assembly had called upon the Commission to continue its consideration of the subject.

2. Despite the encouraging trends exemplified by the elections in Nicaragua and Mongolia, there were many parts of the world in which obstacles to implementation of the right to political participation remained. In the elections held the previous spring in Bulgaria, there had been examples of intimidation, while the recent Romanian elections had been conducted in an atmosphere of fear and violence.

3. In the Union of Myanmar, in spite of the gross violations of campaigning freedoms committed by the ruling military Government, the elections had given an overwhelming majority of seats to the National League for Democracy. However, the Government had refused to allow the Assembly to govern and had further refused to negotiate with the NLD or to release political prisoners and NLD party leaders. For over a decade foreign interference and domestic armed conflict had prevented the Cambodian people from exercising their right to self-determination and freely to choose their Government. The only means by which they could realize that right was through genuine and periodic elections respected by all States and parties concerned.

4. Her delegation urged the Sub-Commission to welcome the recent advances towards ensuring the right to genuine and periodic elections, to call upon States to take the necessary steps to establish Governments based upon such elections and to request the Commission to entrust it with reviewing the report on popular participation prepared by the Secretary-General in the light of the framework of principles adopted for genuine and periodic elections and with preparing recommendations, without financial implications, for modification or additions to the framework to be submitted to the Commission at its forty-eighth session.

5. Ms. LACOURT (International Federation Terre des Hommes) said that her statement was made on behalf of the following non-governmental organizations: the International League for the Rights and the Liberation of Peoples; Human Rights Advocates; the International Fellowship of Reconciliation; International Organization for the Elimination of All Forms of Racial Discrimination; Defence for Children International; Pax Christi International;

the International Movement for Fraternal Union Among Races and Peoples; the International Commission of Health Professionals for Health and Human Rights; and the International Human Rights Law Group.

6. Mr. YIMER, speaking on a point of order, said that a practice had developed whereby non-governmental organizations were speaking twice on agenda item 6 contrary to what he believed established procedure to be. He requested clarification from the Chairman as to whether non-governmental organizations that had already spoken under agenda item 6 were entitled to join a declaration made by another NGO.

7. After a procedural discussion in which Mr. YIMER, Mrs. KSENTINI, Mrs. WARZAZI and Mr. ILKAHANAF took part, the CHAIRMAN appealed to non-governmental organizations to show a sense of responsibility in making joint statements in order to ensure that organizations that had already spoken on non-composite agenda items did not speak twice on the same item.

8. Ms. LACOURT (International Federation Terre des Hommes) said that the scale of problems linked to refugee flows throughout the world was viewed at the very least with apprehension by Governments and her organization urged Governments confronted with massive numbers of refugees to treat them in accordance with the provisions of the international human rights instruments. The refugee flows were themselves caused by violations of fundamental civil, political, economic, social and cultural rights which did not always cease when refugees reached their country of asylum.

9. It was impossible to forget the atrocities committed by the Khmer Rouge in 1975 and 1979. Despite that experience, many persons who had arrived in Thailand after 1980 had been classified as "displaced persons", contrary to international law, and placed under the control of their own authorities, including the Khmer Rouge, who formed part of what was known as the Coalition Government of Democratic Kampuchea rather than under that of UNHCR. A murderous régime was thus internationally recognized and possessed a seat at the United Nations.

10. For 10 years, at least 300,000 Cambodian refugees had been held by the Coalition Government of Democratic Kampuchea in camps in which they were actually prisoners used to serve the ends of the various factions. They were subjected to various forms of violence and coercion and deprived of medical care and security. Adolescents were forced into military service and women and children used to transport military supplies to the battlefield, at great risk to their lives. The camps themselves were occasionally subjected to artillery bombardments and relief teams were frequently prevented from reaching the wounded. There were even a number of secret camps in border areas in which conditions were even worse.

11. Her organization strongly supported the proposal made on 6 March 1990 by the Prime Minister of Thailand for the establishment of a neutral camp to accommodate persons who did not wish to be forced to participate in the war efforts of the three factions in the Coalition Government of Democratic Kampuchea and welcomed the support given to that proposal by the European Community.

12. The need for a political solution to the Cambodian problem was made all the more urgent by the likelihood of an end to the financial support from the COMECON countries, which had hitherto constituted up to 80 per cent of the national budget, the withdrawal of which would probably lead to the collapse of the current Government and the victory of the Khmer Rouge. Accordingly, her delegation requested the Sub-Commission to invite all Governments concerned actively to pursue efforts to achieve a peaceful solution to the Cambodian conflict, to do their utmost to ensure that the criminals responsible for the massacres in Cambodia were excluded from the negotiations, to provide the ways and means for the Cambodian people to exercise its right to self-determination and to guarantee the safety of all Cambodian refugees until that end was achieved.

13. Ms. ECHEVERRIA (Habitat International Coalition) drew the attention of the Sub-Commission to the violation of a variety of rights, in particular the right to adequate housing, by the practice of forced and arbitrary evictions which continued to be carried out in many Member States of the United Nations, and which invariably affected the poorest, most disadvantaged and politically powerless sectors of society.

14. Prestigious international events, such as the 1988 Olympic games in Seoul or the preparations to celebrate the five-hundredth anniversary of the landing of Columbus in the Dominican Republic had already led to the forcible eviction of 720,000 persons and 20,000 families respectively. Sky-rocketing land prices throughout Asia had entailed the forced evictions of thousands of persons. In Hong Kong people who lived in houses that could only be described as wire cages were under threat of eviction, commonly enforced by arson, while in India thousands of people had been forcibly evicted from Bombay and Calcutta. Evictions had also been carried out in the Moroccan city of Fez, the Colombian city of Armenia and in Lhasa in Tibet. The common feature of all those evictions was the use of health grounds and the prevention of urban decay as pretexts to justify them.

15. Forcible evictions were not merely confined to countries in the South: security of tenure was enjoyed by only a small percentage of tenants in the United States of America while in Brussels many low-income tenants had been evicted to free land for new governmental buildings.

16. The above examples were far from exhaustive and her delegation urged the Sub-Commission to take the necessary action to prevent the movement of people against their will, including the practice of forcible evictions.

17. Mr. WAREHAM (International Association Against Torture) said that although the United States of America was rarely mentioned under the current agenda item, there were many areas in which United States citizens of African descent were the victims of a policy of racial discrimination. In the area of health, one study showed that in Harlem the rate of survival of black males over 40 years of age was lower than in Bangladesh, while the infant mortality rate for blacks was 17.9 per thousand live births, as against 8.6 in the case of whites. Blacks were also far more prone to hypertension leading to heart and kidney disease and the death rate among women in the low-income African-American and Latino population was disturbingly high.

18. The spread of AIDS had exacerbated the problems described above and the impact of the disease on the black community was being intensified by the heavy use of the drug "crack" which had been massively pumped into black and Latino communities. Taking all those factors into account, the Africans in the United States remained sceptical about what had been called by one member of the Sub-Commission the success of the great American experiment.

19. In conclusion, his organization was also concerned about the issues brought before the Sub-Commission by the Sioux and Mohawk nations and shared their concern that the United States Government was conducting the same policy of extermination against black people as it had visited upon the indigenous inhabitants of North America. He invited the observer for the United States of America to exercise its right of reply and to offer some explanation to the Commission for the miserable reality exposed by the Government's own statistics.

20. The CHAIRMAN reminded speakers that personal attacks on members of the Sub-Commission were out of order.

21. Ms. MESSIDORO (International Association Against Torture) said that as a result of its visit to Central America in April 1990, her organization was deeply concerned by the situation in Guatemala and El Salvador where systematic human rights violations were commonplace. However, she wished to draw the attention of the Sub-Commission to the situation in Honduras, where under the pretext of the national security doctrine, large numbers of activists, students, intellectuals and peasants had disappeared or been murdered by the army and by death squads.

22. Mr. MacDERMOT (International Commission of Jurists) said that over the years the role played in the Sub-Commission by the non-governmental organizations had evolved considerably and they now enjoyed the same freedom of speech as government observers and members of the Sub-Commission.

23. Together with other non-governmental organizations, the ICJ had for many years drawn the attention of the Sub-Commission to the exactions committed against the civilian, and particularly the Kurdish population in Iraq. It was to be hoped that the invasion and annexation of Kuwait would provoke a condemnation by the Sub-Commission not only of that outrage, but also of Iraq's long-standing failure to respect human rights.

24. The black population in the south of Mauritania continued to suffer massive human rights abuses, including torture, summary and extrajudicial executions. Those abuses, coupled with the continued practice of slavery, demanded international attention. There was evidence that the Government used its conflict with Senegal as a licence for the forced detention and expulsion of thousands of black Mauritanians.

25. In Myanmar, although the National League for Democracy had won 80 per cent of seats in the National Assembly in the May 1990 elections, the military Government had refused to hand over power and was insisting that it could not do so until a new constitution had been drafted and approved by a body appointed by the Military Council, thus not only attempting to delay the transfer of power but also to impose a constitution satisfactory to the army.

In Somalia, the massacre at Jezira beach of 46 members of the Issaq clan, who comprised the bulk of the opposition, was but one example of the human rights abuses against critics of the Government. Although a committee of inquiry had been set up, its report had yet to be made public.

26. In Peru, where more than 1,000 deaths due to political violence and 130 disappearances had been reported in the first half of 1990, the victims of human rights violations had included his organization's Peruvian affiliate, the Andean Commission of Jurists, and Amnesty International, and a number of human rights activists had been either abducted or assassinated in Ayacucho Department.

27. The deteriorating human rights situation in Sri Lanka, for which the Government could not be held entirely responsible, was also a source of concern. There had been large numbers of disappearances reported in areas where government forces had regained control from the Liberation Tigers. An observer from his organization had closely followed one case in which a well-known journalist, Mr. de Zoysa, had been abducted and murdered by a group of people that allegedly included a senior police officer. The magistrate responsible for the investigation had been prevented by the police from completing her inquiry. His organization strongly recommended the appointment of an independent commission of inquiry into the circumstances of the journalist's death.

28. Mr. LITTMAN (World Union for Progressive Judaism) said that three weeks after the brutal occupation of Kuwait by Iraq the issue of the very grave human rights violations in Iraqi-occupied Kuwait had still not been seriously addressed nor had a common declaration been issued. Saddam Hussein's act was intended to further his strategic aim of total hegemony in the Middle East and beyond. The shameful support in the form of conscious complicity or complacency shown by the great majority of the world's Governments towards the Iraqi régime over the previous decade had surely contributed to its decision to ignore international humanitarian law. A year had elapsed since the Sub-Commission had envisaged a special inquiry into Iraq's use of poison gas against its own population and nothing had been done.

29. He drew the attention of the Sub-Commission to the enthusiastic support given by the Chairman of the PLO, Mr. Yasser Arafat, to Saddam Hussein in respect of his barbaric threat to incinerate half of Israel and hoped that Mr. Arafat's statement would be condemned by the Sub-Commission. He urged the Sub-Commission to speak out, and strongly condemn the behaviour of Iraq by passing a strong condemnatory resolution of the Iraqi Government's massive and persistent violations of fundamental human rights.

30. The CHAIRMAN recalled that on a number of occasions he had appealed to speakers to refrain from using abusive or insulting language against Governments.

31. He said that the time allocated to observers of non-governmental organizations had elapsed and gave the floor to government observers who wished to speak in exercise of the right of reply.

32. Mr. NGO HAC TEAM (Observer for Cambodia), speaking in exercise of the right of reply, said that his delegation deeply regretted that the most serious problem affecting the Cambodian people, the occupation, colonization and Vietnamization of Cambodia, had not been raised in the Sub-Commission. He also regretted the credit given to certain allegations whose sole purpose was to divide the national resistance and to denigrate its patriotic combatants. A telling silence surrounded the genocide and destruction committed each day against Cambodia by the Hanoi authorities and its puppets and encouraged the aggressors to maintain their intransigent position.

33. In a statement on 19 July 1990, HRH Prince Sihanouk had stated that the Socialist Republic of Viet Nam still maintained over 40,000 élite troops in Cambodia where more than 1 million Vietnamese settlers had been installed as part of an attempt to modify the country's frontiers to the benefit of Viet Nam.

34. The Cambodian national Government fully supported the position of principle reaffirmed by the ASEAN countries on 23 July 1990 in Jakarta and the conclusions of the five permanent Members of the Security Council regarding a comprehensive political settlement of the Cambodian problem, a simultaneous settlement of its external and internal aspects with the withdrawal of all the Vietnamese forces in Cambodia, a cease-fire and the regrouping and disarmament of the armed forces of the four factions, the holding of free and fair elections, all under the control and supervision of the United Nations. It also supported the view of the ASEAN countries and of the five permanent Members of the United Nations Security Council that none of the Cambodian parties should be allowed to seize or maintain power by force of arms, to occupy a predominant position or to be excluded.

35. Mr. AL-DOURI (Observer for Iraq) said that a number of speakers had referred to the question of foreigners in Iraq. He assured everyone that there were no foreign hostages in Iraq and that the foreigners concerned were regarded as guests entitled to the same rights as Iraqis. They would be allowed to leave as soon as the situation settled down following the withdrawal of foreign forces from the region.

36. It was necessary to take into account the reasons why the Government of Iraq had adopted that measure and he asked whether the members of the Commission had examined the nature of the foreign forces in the Gulf and whether they had been sent to defend human rights or to protect economic and oil interests and to further the well-known expansionist colonialist objectives of the countries concerned.

37. It would have been more appropriate if the experts had referred to the foreign embargo, inflicted on the entire Iraqi people by the United States and foreign forces and imperialist interests, that had even deprived children of milk and sick persons of medicines. He asked whether the Sub-Commission had examined the occupation of Grenada and Panama by the United States, an issue on which he would be interested to know the opinions of a number of the experts on the Sub-Commission. He reminded Mr. Treat that his Government had interned tens of thousands of Japanese during the Second World War in special camps, asking him whether that was an occurrence of which the United States was not proud.

38. The CHAIRMAN reminded the speaker that he had been given an opportunity to exercise his right of reply and not to put questions to the members of the Sub-Commission.

39. Mr. AL-DOURI (Observer for Iraq) said that the deployment of hundreds of thousands of foreign troops could by no stretch of the imagination be described as a state of peace and threatened the existence of the Iraqi people as a whole. He noted that the numbers of Kurds affected by the alleged relocation from border areas appeared to increase day by day depending on political circumstances.

40. Lastly, he said that the ban on travel by some foreigners was not a form of reprisal but was merely intended to avert a crime of aggression which President Bush intended to commit against the Iraqi people after his criminal occupation of the land of the Ka'aba and the Grave of the Prophet. The foreigners in Iraq might well contribute to preventing the perpetration of further crimes and further the cause of peace by obstructing warmongering United States policy.

41. Mr. HEINZ (Observer for Canada) said that he had been keeping the Chairman, the Chairman of the Working Group on Indigenous Populations and representatives of the Secretary-General informed of the efforts made by the Canadian Government to ensure a peaceful negotiated resolution to the delicate situation at Oka, Kanesatake and Kahnawake.

42. He said that the Government of Canada's prime responsibility was to defuse the situation and ensure no further harm was caused to anyone involved and that the outcome of the situation depended on the behaviour of all parties concerned. Canadian representatives had been refraining and would continue to refrain from making any public comments that might jeopardize the negotiating process. The statement made by the representative of the International Work Group for Indigenous Affairs had dredged up a hotchpotch of outdated charges that had already been made, together with others that could only be described as intentionally provocative, about matters which the parties had agreed should be referred to the International Federation of Human Rights.

43. He said that as far as he was aware, the complaints made by the International Work Group for Indigenous Affairs had not led to any findings of violations and conveyed his Government's appreciation for the understanding shown by the Sub-Commission for the efforts made to achieve a peaceful solution to the conflict.

The meeting rose at 9 p.m.